Supreme Court, U.S.
FILED

06-321 JUN 18 2006

OFFICE OF THE CLERK

SUPREME COURT OF THE UNITED STATES

ROBERT LEE BROADNEX
PETITIONER

VERSUS

STATE OF CALIFORNIA
RESPONDENTS

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF CALIFORNIA

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Questions presented

I. Whether factually innocent petitioner was denied a fair trial because the sole eyewitness to the shooting lied and petitioner's conviction for second-degree murder rested on the testimony of three eyewitnesses, only one of whom testified to seeing the actually shooting. She later recanted, saying that she relied on the statement to her of another witness describing the shooting, but that she had not seen the shooting. Her recantation casts doubt on all the evidence in the case. The other witnesses did not see the shooting.

II. Whether factually innocent Petitioner is entitled to relief where the police or a prosecution witness dissuaded the supposed eyewitness from recanting during the trial where there is no question that one of the state's key witnesses told the "eyewitness" to stick to her story. She claims also that police and the witness threatened her if she changed her story, although the story was not true.

III. Whether it is sufficient to require reversal of the conviction even if petitioner cannot show that the state knew the testimony was false; although the record is clear that the eyewitness recanted and that she told multiple stories to the police, Petitioner cannot now show that the police knew the testimony was false at the time Petitioner was tried. Petitioner suggests that reversal and remand are required pursuant to *Napue v. Illinois* 360 U.S. 264 (1959) and *Alcorta v. Texas* 355 U.S. 28.

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RELEVANT CONSTITUTIONAL AND STATUTORY PROVISIONS

United States Constitution Amendment VI

United States Constitution Amendment XIV

California Penal Code section 1473

(a) Every person unlawfully imprisoned or restrained of his liberty, under any pretense whatever, may prosecute a writ of habeas corpus, to inquire into the cause of such imprisonment or restraint.

(b) A writ of habeas corpus may be prosecuted for, but not limited to, the following reasons:

(1) False evidence that is substantially material or probative on the issue of guilt or punishment was introduced against a person at any hearing or trial relating to his incarceration; or (2) False physical evidence, believed by a person to be factual, probative, or material on the issue of guilt, which was known by the person at the time of entering a plea of guilty, which was a material factor directly related to the plea of guilty by the person.

(c) Any allegation that the prosecution knew or should have known of the false nature of the evidence referred to in subdivision (b) is immaterial to the prosecution of a writ of habeas corpus brought pursuant to subdivision (b).

(d) Nothing in this section shall be construed as limiting the grounds for which a writ of habeas corpus may be prosecuted or as precluding the use of any other remedies.

JURISIDICTION

This Court has Jurisdiction because Petitioner seeks review of a final judgment of the Supreme Court of the State of California denying his Petition for a Writ of Habeas Corpus. That Court denied the Petition on March 22, 2006. (Order denying Petition for Writ of Habeas Corpus, attached).

This Court also has Jurisdiction because Petitioner fully exhausted his claim for relief in the State courts, said claim being that his state criminal conviction was the result of the knowing use of and subornation of perjured testimony, contrary to long established precedent of this Court, *Mooney v. Holohan*, 294 U.S. 103, 55 S. Ct. 340, 79 L.Ed.2d 791 (1935) and of the right to due process as guaranteed by the XIVth amendment.

Justice Kennedy granted Petitioner's request for Exhibits to State Petition tension of time to file the within Petition until July 20, 2006.

JUDGMENT SOUGHT TO BE REVIEWED

Petitioner seeks review of the denial of his Petition for Writ of Habeas Corpus by the California Supreme Court. The Appendix contains the California Supreme Court order and the orders and opinions of the Court of Appeal and the Superior Court, as well as the transcripts of the evidentiary hearing held in this matter and exhibits presented to the California Supreme Court.

STATEMENT OF FACTS

Petitioner was convicted in 1993 of second-degree murder for shooting Jaime Plasencia, a/k/a Roberto. The Court of Appeal affirmed his

conviction. He filed a state habeas on September 2003.

The Superior Court held an evidentiary hearing held 7/16/04 and the Habeas petition was denied 11/10/04 but Petitioner was not notified until 12/02/04. Petitioner filed a habeas petition in the state court of appeal, which was denied 11/22/05. His habeas corpus petition to the California Supreme Court was denied 3/22/06.

Facts: Petitioner was convicted of murder based upon the eyewitness testimony of Daphne Cade who described in detail that she had seen him raise a gun to the victim's head, although his arms were in casts or white bandages, and she then heard the shot, having turned her head away at that point. She later recanted, saying that the police and Debra Johnson told her what to say and that she was not present at the shooting. Instead Debra told her details and her testimony was informed by her belief, based upon what Debra told her, that Petitioner was guilty. Her false testimony at trial is the basis for the habeas petition. After the evidentiary hearing the trial judge said that he did not believe her testimony at the evidentiary hearing but instead her original testimony.

The Superior Court held an evidentiary hearing at which Petitioner showed that :

"Eyewitness" Cade lied at trial when she said she saw the murder. (Exhibits page 61) Instead, she admitted that she did not see it, but another witness, Debra Johnson, (Exhibits pages 34,46,63) and the police had told her what to say (Exhibits pages 48,64.) She had told the police she had seen the shooting because Debra Johnson had described it to her. (Exhibits page 34-35). Although she wanted to change her story at the trial and retrial, Debra Johnson had told her to stick to her story.

She found out only after the trial that Johnson had not in fact see the shooting. (Exhibits page 81)

That Johnson told Cade to stick to her story was corroborated both by Johnson herself and by a juror in the first trial who had heard the exchange.

At the evidentiary hearing Cade and her boyfriend Keith Morisette said that Cade was with Morisette and had not seen the shooting. (Exhibits page 98.)

Order on State Habeas

Although Petitioner unsuccessfully petitioned the State Court of Appeal and Supreme Court, the Superior Court was the only one to issue a detailed order. (Exhibit B, exhibits pages 3-9.) The Superior Court judge reviewed Petitioner's contentions and the testimony of Cade, Keith Morisette, and Miriam Broadnex, Petitioner's mother. He did not find Cade or Morisette credible (but said nothing about Miriam Broadnex.) He therefore denied the petition.

DISCUSSION

THIS COURT SHOULD GRANT CERTIORARI BECAUSE AN INNOCENT MAN SITS IN PRISON HAVING BEEN CONVICTED ON FALSE TESTIMONY THAT WAS TO SOME EXTENT PROMULGATED BY THE PROSECUTION

I. This Court is not bound by the Superior Court's determination of the facts, and instead independently reviews the evidence, here to assess whether Petitioner has demonstrated a sufficient probability that the testimony against him was false.

This case concerns a conviction based upon false evidence that was material, probative, and suborned by the police or known to be false. If it

does not appear clear that the police induced the false testimony or knew it was false, is police/DA knowledge required if the conviction resulted from false testimony? Petitioner urges this court to grant certiorari and then to find that any conviction based upon false testimony should be reversed.

Defendant maintains his innocence. He offered corroborated alibi evidence at trial: that he was at his mother's house, that she locks her house at night and defendant could not have gone out at 3'oclock in the morning because he had no key, and that it was unlikely if not impossible for him to have used a firearm because his arms were in casts because he had been shot in both hands. His conviction clearly resulted only from the dramatic "eyewitness" testimony that has now been recanted.

STANDARD OF REVIEW

This Court makes its own independent examination of the record where a federal constitutional violation is alleged. (*Martin v. Hunter's Lessee*, 14 U.S. 302, 315-16 (1816).

PETITIONER'S CONVICTION ON FALSE EVIDENCE OFFENDS THE CONSTITUTION.

The conviction of an innocent person based upon false testimony offends the Constitution.

Hicks v. Oklahoma (447 U.S. 343 [100 S.Ct. 2227, 65 L. Ed 2d. 175] 1980)

Mooney v. Holohan 294 U.S. 103, 55 S.CT. 340, 79 L.Ed. 791] (1935).

Defendant has a federal constitutional right not to be convicted on the state's knowing use of false testimony. (*Mooney v. Holohan*, 294 U.S. 103, 112-113). Under the XIVth Amendment the deliberate deception violates due process. Petitioner

bears the burden of proof by preponderance of the evidence.

Petitioner suggests, and requests this Court to find, that any conviction based upon false testimony violates the Constitution and must be reversed, whether or not the state knew the evidence was false.

Further, he requests that this Court's independently review the evidence and find that he his conviction was unconstitutional because it was based upon false evidence.

. THE RECORD SHOWS THAT PETITIONER WAS CONVICTED ON FALSE TESTIMONY

At the preliminary hearing and at both trials Cade gave detailed descriptions of the shooting. Her testimony at the second trial is included in the exhibits to this Petition (Exhibit E.) In brief, she said that she observed Petitioner with a gun to the victim's left temple but that she looked away before she heard the shot. (This is the testimony that she recants at the Superior Court evidentiary hearing on the habeas petition, Exhibit D to this Petition.) The state court Petition was based upon new evidence: that Cade lied about seeing the shooting and that she did so because she falsely believed that Debra Johnson had seen the shooting but could not say so to the police. Cade also said that she testified as she did because Johnson and the police told her what to say.

The record supports Petitioner's contention that Cade's only true testimony is her recantation.

1) When she talked to the police she did not tell them Michael Good and Dempsey were present. (Exhibit E, trial transcript page 157)

2) She initially chose not to talk to the police. (Exhibit E page 159)

3) Her testimony at the preliminary hearing was false about where she was standing during the shooting. (Exhibit E at page 172-173.)

4) Although she testified at the second trial that she was under a tree and that she went over her testimony and made a diagram of the scene with one of the district attorney., there is no tree in the diagram presented to the jury. (Exhibit E at page 180).

5) There is no tree in her statement to the police. (Exhibit E at page 181).

6) Her statement to the police about where she was during the shooting was false. (Exhibit E at page 183.)

7) Her previous testimony about where she was during the shooting was false. (Exhibit E at Page 189.)

8) Her previous testimony about whether she paid rent to Johnson was false. (Exhibit E at page 190).

9) She lied to the police about who else was in the driveway at the time she claimed to have seen the shooting. (Exhibit E at page 191.)

10) Her testimony at trial contradicts her earlier statements about what she heard the person she identified as Petitioner and the victim say to each other before the shooting. (Exhibit E at page 192-194.)

11) She claimed that her testimony at the preliminary hearing about whether the shooter had the gun out when Michael and Debra were outside was an error. (Exhibit E at page 196).

12) She contradicted herself at trial about whether Petitioner could use his fingers or hands. (See e.g. Exhibit E at pages 211-213) and which direction she ran after the shooting. (Id and pages 220-225.)

At the evidentiary hearing on the habeas petition (Exhibit B to this Petition) Cade said that:

1. She had lied at the trial. (Exhibit D, exhibits page 33)

2. The police and Debra Johnson told her what to say. (Exhibits page 34)

3. Debra Johnson told her that Debra had seen the shooting but Cade should tell the police that Cade had seen it. (Id.)

4. When she testified at the trials and preliminary hearing she did not know that Petitioner had casts (as opposed to bandages) on his hands. (Exhibits page 34.)

5. Cade told the police she had not seen the shooting. (Exhibits at page 34.)

6. There was drug dealing at the Johnson house. (Exhibits page 141 .)

7. Cade never saw anyone kill the victim. However, she and Keith heard the gunshot, but did not go to the scene of the crime(Exhibits at pages 46, 106.)

8. Johnson told her what to say to the police and the police told her that if she did not say that "Fella" did it, they would put her in jail. They also said that they would get a warrant for murder, and for not coming in with a statement, against her boyfriend. Keith Morisette.(Exhibits page 34-64.)

At the evidentiary hearing Cade said that she believed Debra Johnson when Johnson told her that Johnson had seen the shooting. (Exhibits page 60.) She also believed the police. (Exhibits page 64.) She talked to the police and testified against Broadnex because she felt that it was just wrong for Broadnex to shoot Roberto.

At the time she testified she did not know that Johnson had not seen the shooting. (Exhibits at page 60.)

Miriam Broadnex, Petitioner's wife corroborates Cade's story about the meeting that led to her confession to lying at trial. (Exhibit B at page 61.) After Mrs. Broadnex found out about Cade's retraction she needed between six months to a year to raise money for a lawyer. (Exhibit B at page 62 47.)

Keith Morisette corroborated Cade's testimony.

He says that he was in his garage watching TV when he heard the shot; he went outside being nosy and walked around the neighborhood. Debra told the police where to find him and Cade---Police found him at his grandmother's house. (Exhibits at page 100.)

Keith Morisette was initially arrested for this murder. (Id.) He knew what the police and Debra Johnson had told Cade to say and his home is across the street from the Johnson house. (Exhibit Page 107.) Morisette did not see the body when he came out after hearing the shot. (Id.) Daphne told him immediately that she had lied at trial and that she was scared that Debra and the police had threatened her. (Exhibits page 108.)

Johnson was angry with Petitioner because she thought he was selling drugs in her territory. (Exhibits page 138.)

There is no factual dispute that Johnson told Cade what to day at the trials. A juror in the first trial, which was deadlocked, heard Johnson tell Cade and Good "whatever you do make sure you stick to your story". Johnson and Cade testified that Johnson told Cade to stick to her story but also that this followed Cade saying that she felt she was lying.

There is no factual dispute about Petitioner's casts: Petitioner's arms were in casts or bandages

(he says casts) but he could brush his hair and dial a phone. (Opinion of Court of Appeal, direct appeal, page 6, Exhibit A to State Petition). The record does not show whether he could hold a gun and pull the trigger.

ARGUMENT

PETITIONER IS ENTITILED TO RELIEF WHETHER OR NOT THE STATE KNEW THE EVIDENCE WAS FALSE.

The central issue in this case is:

Does the Constitution prohibit only the state's knowing use of false testimony such that the police or prosecution must know that the evidence is false, or is it sufficient that the conviction rest on false testimony because the prosecution has an obligation to correct the falsehood whenever it learns of it? Under California law Petitioner was entitled to habeas relief because false evidence that was substantially probative on the issue of guilt was introduced at trial. (California Penal Code section 1473.) California does not require that the prosecution know the evidence is false when it is introduced. (California Penal Code section 1473 subd. d.)

In *Napue v. Illinois* 360 U.S. 264 (1959), the witness testified falsely that he had received no promise or consideration for his testimony when instead he had been promised sentencing consideration. This Court held that the conviction must fall because the prosecution, which had made the promise, knew the statement would be false but elicited the testimony any way.

The result would be the same where the state, even though it did not solicit the false testimony, allowed it to go uncorrected: see *Alcorta Texas* 355 U.S. 28

Petitioner submits that "A Lie is a Lie" and therefore, his conviction should be vacated even if the prosecution had no part in procuring the false statement.

THIS COURT'S PREVIOUS DECISIONS THAT PROTECT A DEFENDANT FROM CONVICTION BY FALSE EVIDENCE SUPPORT PETITIONER

Petitioner's case is similar factually to *Alcorta v. Texas*, where the prosecution did not necessarily direct the false testimony, but encouraged the main witness not to volunteer the truth. Castilleja, who had been having an affair with the accused's wife and had discussed the affair with the prosecution. The state's attorney told him *he should not volunteer any information about such intercourse* but if specifically asked about it to answer truthfully. This Court reversed the decision of the Texas Supreme Court denying Alcorta's petition for a writ of habeas corpus.

Basing its decision on the general principles laid down by this Court *in Mooney v . Holohan* and Pyle v. State of Kansas, 317 U.S. 213, 63 S.Ct. 177, 87 L.Ed.2d 214, this Court held that Alcorta was denied due process of law

> It cannot seriously be disputed that Castilleja's testimony, taken as a whole, gave the jury the false impression that his relationship with petitioner's wife was nothing more than that of casual friendship. The prosecutor who knew of the illicit intercourse between Castilleja and petitioner's wife elicited this testimony. Undoubtedly Castilleja's testimony was seriously prejudicial to petitioner. It tended squarely to refute his claim that he had adequate cause for a surge of

'sudden passion' in which he killed his wife. If Castilleja's relationship with petitioner's wife had been truthfully portrayed to the jury, it would have, apart from impeaching his credibility, tended to corroborate petitioner's contention that he had found his wife embracing Castilleja. If petitioner's defense had been accepted by the jury, as it might well have been if Castilleja had not been allowed to testify falsely, to the knowledge of the prosecutor, his offense would have been reduced to 'murder without malice' precluding the death penalty now imposed upon him. (Id at pp 30-32.)

PETITIONER'S CONVICTION OFFENDS DUE PROCESS WHETHER OR NOT THE STATE KNEW THAT CADE WAS LYING

In Petitioner's case it is clear that if the prosecution knew that Cade was testifying falsely that due process would have been violated (See, e.g., *Banks v. Dretke* 540 U.S. 668 (2004) where the prosecution's failure to disclose the false testimony was a Brady violation as well.) If the prosecution procured the false testimony, again, there would be a clear violation. A state conviction obtained by the knowing use of perjured testimony is unconstitutional. *Mooney v. Holohan,* 294 U.S. 103, 112, 55 S.Ct. 340, 341-42, 79 L.Ed. 791 (1935). "The same result obtains when the State, although not soliciting false evidence, allows it to go uncorrected when it appears." *Napue v. Illinois,* 360 U.S. 264, 269-70, 79 S.Ct. 1173, 1177, 3 L.Ed.2d 1217 (1959) (citations omitted). This rule applies even though the false testimony only goes to the credibility of the witness. Id. A conviction must be reversed if "there is any reasonable

likelihood that the false testimony could have affected the judgment of the jury." *United States v. Agurs,* 427 U.S. 97, 103, 96 S.Ct. 2392, 2397, 49 L.Ed.2d 342 (1976) (footnote omitted).
Furthermore, a defendant's due process rights can be violated when a prosecutor was not, but should have been, aware that her or his witness was lying. *See Giglio v. United States,* 405 U.S. 150, 92 S.Ct. 763, 31 L.Ed.2d 104 (1972) (prosecutor responsible to know of promise of immunity given to a witness by another prosecutor in the same office).
Moreover, under California law the prosecution does not need to know that the testimony is false.

The Second Circuit held, even absent a showing of prosecutorial misconduct, a conviction obtained in part by perjured testimony may violate due process. *Sanders v. Sullivan,* 863 F.2d 218, 224 (2d Cir.1988) (holding that conviction based on testimony later recanted may be of extraordinary nature to find due process violation and remanding for hearing as to credibility of recantation). The state violates a criminal defendant's right to due process of law when, although not soliciting false evidence, it allows false evidence to go uncorrected when it appears. *See Alcorta v. Texas,* 355 U.S. 28, 78 S.Ct. 103, 2 L.Ed.2d 9 (1957); *Pyle v. Kansas,* 317 U.S. 213, 63 S.Ct. 177, 87 L.Ed. 214 (1942). (See also, *Hayes v. Brown* 399 F.3d 972 (9th Cir. 2005).
In Petitioner's case, although there were many indications that she was untruthful, the lying witness only admitted her perjury ten years after the conviction—that she not only had not seen the shooting, but the entire story had been fabricated by Johnson and the police. (Declaration and testimony of Daphne Cade, Exhibits E.)

Here, after ten years, the key witness, who had testified falsely that she had seen the murder,

claimed that she had so testified believing what she had been told by her landlady, Debra Johnson,—that the landlady had seen Petitioner commit the murder. The witness, Daphne Cade, then learned that Johnson had not seen the shooting. After a chance encounter ten years later with Petitioner's sister, Cade finally unburdened herself of her lie. So it is unlikely that the prosecution could have known at the time of trial that Cade's testimony was doubly false.

Thus, this case presents the question of whether a conviction must be reversed and the case remanded for a new trial where the key prosecution witness comes forward after the trial is over with testimony that eviscerates the prosecution's case, but the defendant cannot show that the prosecution knew or should have known that the evidence was false.

Petitioner maintains that based upon this court's historic jurisprudence, notwithstanding the high threshold for proving innocence post-conviction set in *Herrera* that the answer must be yes. That being the case, Petitioner maintains that the state courts unconstitutionally applied the state habeas statute in violation of this court's jurisprudence. Moreover, the facts support the conclusion that the prosecution should have known that Cade's trial testimony was false because of her many contradictions.

PRAYER FOR RELIEF

Petitioner, therefore, prays that this court will grant certiorari, review the record, and reverse his conviction.

Respectfully submitted,

July 5, 2006

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SUPREME COURT OF THE UNITED STATES

ROBERT LEE BROADNEX
PETITIONER

VERSUS

STATE OF CALIFORNIA
RESPONDENTS

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF CALIFORNIA

Exhibits to Petition Part 1
Pages 1-171

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EXHIBIT A: SUPREME COURT DENIAL OF HABEAS PETITION

EXHIBIT B: SUPERIOR COURT RULING ON HABEAS PETITION

EXHIBIT C
COURT OF APPEAL OPINION ON DIRECT APPEAL

EXHIBIT D
SUPERIOR COURT EVIDENTIARY HEARING ON HABEAS PETITION

EXHIBIT E
TRIAL TESTIMONY OF DAPHNE CADE

EXHIBIT F
DECLARATIONS IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS:
DAPHNE CADE AND KEITH MORISETTE

S132892

(DOCUMENT Scanned and resized.)

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re ROBERT LEE BROADNEX on Habeas Corpus

Petition for writ of habeas corpus is DENIED.

George, C.J., was absent and did not participate.

(FILE STAMPED) SUPREME COURT

FILED

MAR 22 2005

Frederick K Ohirich,Clerk

DEPUTY

MORENO

Acting Chief Justice

EXHIBIT A

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES, SOUTH CENTRAL DISTRICT

INRE	)
	) CASE NO: TA020341
ROBERT LEE BROADNEX	)
PETITIONER	)
On Habeas Corpus..	)

On September 3, 2003, Petitioner Robert Lee Broadnex filed a Petition for Writ of Habeas Corpus. The Writ challenges his 1993 conviction of second degree murder. Petitioner 18 was sentenced to 27 years to life on September 15, 1993. Among the various witnesses who testified at trial were Debra Johnson, Daphne Cade and Michael Good. Debra Johnson testified that she heard an angry confrontation between the Petitioner and the victim, Jaime Plasencia. Michael Good testified that he saw Petitioner raise a gun while standing near the victim. Daphne Cade testified that she saw him place a gun to the victim s head. All three heard a gunshot, which killed .Jaime Plasencia. Additional facts are contained in the Court of Appeal decision filed February, 21. 1995.

EXHIBIT B

ORDER ON PETITION FOR WRIT OF HABEAS CORPUS (scanned)

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. ROBERT LEE BROADNEX, Defendant	) Case NO. TA020341

Order on Petition for Writ of Habeas Corpus

On September 3,2003, Petitioner Robert Lee Broadnex filed a Petition for Writ o Habeas Corpus. The Petitioner challenges his 1993 conviction of second degree murder. Petitioner was sentenced to 27 years to life on September 15, 1993. Among the various witnesses who testified at trial were Debra Johnson, Daphne Cade and Michael Good. Debra Johnson testified that she heard an angry confrontation between the Petitioner and the victim, Jaime Plasencia. Michael Good testified that he saw Petitioner raise a gun while standing near the victim. Daphne Cade testified that she saw him place a gun to the victim's head. All three heard a gunshot which. killed .Jaime Plasencia. Additional facts are contained in the Court of Appeal decision filed February 21. 1995.

The Petition alleges that Daphne Cade lied at trial and that she was not present when the victim was shot, but rather with her boyfriend some distance away. In addition to the Petition and its

attached declarations, this Court has read and considered the Informal Response, Petitioners Reply, the Return, and the Reply thereto.

An evidentiary hearing was held on July 16 and 23. 2004. Daphne Cade, Miriam Broadnex, Keith Morisette and Mary Mills were called as witnesses on behalf of Petitioner. On September 7. 2004, Petitioner filed a supplemental brief and the matter was submitted for decision on September 24, 2004. Due to an illness to the attorney for the People, the supplemental opposition was not filed until October 19, 2004.

At the evidentiary hearing, Daphne Cade testified that she did not see Petitioner shoot the victim, that Debra Johnson told her to lie at trial and that she did so because she was afraid of the police. She further testified that she "just didn't" later go to the police and tell them that she lied and didn't tell any of Petitioner's relatives or any of his "people" in his neighborhood because she didn't know where they lived or how to contact them. She did tell Petitioner's sister and Miriam Broadnex about her alleged lies at trial when they ran into each other on the street in 2003.

Daphne Cade additionally testified that at the time of the shooting, she was with her boyfriend. Keith Morisette, and only heard the gunshot.

Keith Morisette testified at the evidentiary hearing that he and Daphne Cade were in his garage, and heard the

fatal gunshot. He and Ms. Cede walked around the neighborhood after the shooting and saw the police tape around the crime scene.

To a large extent, the resolution of this Writ proceeding depends upon whether or not the evidentiary hearing testimony of Daphne Cade and Keith Morisette were credible. The Court specifically finds that neither of these witnesses was credible. Daphne Cede never provided the Court with a plausible explanation as to why she wailed over 10 years before coming forward to correct her testimony identifying Petitioner as the shooter at the Preliminary Hearing and both jury trials. It is clear to the Court that she knew generally where Petitioner's relatives and associates were and could have contacted someone close to him had she really wanted to. The Court itself questioned Daphne Cade at the hearing a number of times about her seemingly lack of interest in telling someone that her allegedly false testimony was the cause of an innocent man spending his life in prison for a crime that he did not commit. In response, Ms. Cade, by he tone, manner and words convinced this Court that she lied at the evidentiary hearing. She ultimately told the Court that had she never seen Petitioner's wife on the street that day, she "probably wouldn't have" ever told anyone that she had lied in court.

Her testimony at the evidentiary hearing is far more consistent with a person who

testified correctly three times in 1993 that Petitioner murdered Jaime Plasencia than a person whose conscience led her to correcting an 10-year-old error. Her testimony is not made credible because of Keith Morisette's testimony. Mr. Morisette stated he had known Petitioner for over 30 years and both were Eight Trey gang members. Mr. Morisette was apparently the "shot caller" for the gang. He specifically refused to answer the Court's questions as to why he would not tell the police of Petitioner's false conviction, despite given numerous opportunities to do so. While he did indicate that a person testifying, falsely or not, against one of his fellow gang members would "get took out," he apparently had no problem with his girlfriend, Ms. Cade, doing just that.

Mr. Morisette was an entirely unbelievable witness. His cavalier attitude on the witness stand, his refusal to answer the Court's questions and his utter failure to provide any reasonable answer as to why he. like •Ms. Cade, failed to come forward for 10 years were rather remarkable, He, similar to Ms. Cade. testified in response to one of the Court's questions that if the defense investigator hadn't contacted him, he probably would never had come forward to clear a fellow gang member and friend of 30 years. Having, determined that both of Petitioner's key witnesses were not

credible at the evidentiary hearing. this Court specifically finds that Petitioner has not met his burden in proving the allegations contained in the Petition for Writ of Habeas Corpus. To the contrary, it is clear to the Court that Daphne Cade was present at the time of the shooting of Jaime Plasencia, did see Petitioner put the gun to the victim' s head and truthfully testified about what she saw in the 1993 proceedings.
In addition, even had Ms. Cade testified at trial as she did in the evidentiary hearing, the verdict would have been the same. The jury that convicted Petitioner had evidence before it that during the initial trial, Debra Johnson told Michael Good and Daphne Cade how to testify. The jury considered this evidence in judging these witnesses' credibility and in determining that petitioner murdered Jaime Plasencia. A subsequent uncredible recanting of her previous testimony would also resulted in a guilty verdict against the Petitioner. For all the reasons stated above. the Petition for Writ of Habeas Corpus is denied.

DATED: 11/10/04~~ -.
(signature)\
GARY E. DAIGH ,JUDGE OF THE SUPE

EXHIBIT C
COURT OF APPEAL OPINION

(DOCUMENT RETYPED FOR THIS PETITION)
NOT TO BE PUBLISHED
COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION TWO

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. ROBERT LEE BROADNEX, Defendant	No.B079856 (Super. NO. TA020341) (FILE STAMP: FEB 21, 1995)

THE COURT:*

Appellant, Robert Lee Broadnex, was convicted by a jury of second degree murder with a finding he used a gun in the commission of the murder. . (Pen. Code, §~ 187, 12022.5, subd. (a).) The trial court found appellant served two prior prison terms and sustained a prior serious felony conviction. (Pen. Code, §S 667, subd. (a), 667.5, subd. (b).) The trial court sentenced appellant to a total prison term of 27 years to life and imposed a $200 restitution fine. Broadnex appeals from the judgment.

FACTS

Viewed in the light most favorable to the judgment (People v. Ceja (1993) 4 Cal.4th 1134, 1138-1139), the evidence established the following. In the early morning hours of August 18, 1992, Debra Johnson heard appellant angrily ask Jaime Plasencia in front of Johnson's residence

on 84th Place near Kansas Avenue in Los Angeles for the name of the person who had told Plasencia to stay away from appellant. After Plasencia denied knowing that person's name, appellant killed Plasencia by shooting him in the head at close range with a handgun. Appellant ha- a cast on each arm extending from the elbow to part of the hand. The casts did not cover his fingers. Michael Good, who had come to the area of Johnson's residence to buy cocaine, saw appellant raise the gun while appellant stood near Plasencia. Daphne Cade, who lived with Johnson, saw appellant place the gun against Plasencia's head.[1]

1. Johnson, Cade, and Good were each reluctant to disclose their knowledge regarding the shooting. When Johnson was first interviewed by the police, she did not mention the names of all the people she saw outside her house immediately before she went inside the house and heard the shooting because she was afraid for the safety of Cade, Good, and her family. She stated she had some problems after giving the police more complete information, but did not elaborate. When Cade spoke to the police two days after the shooting, she did not mention that Good and a man named Dempsey were present when the shooting occurred because she was afraid they might get hurt. Immediately after identifying appellant in a photographic

In defense, a juror testified that,

during a recess in a previous trial in the same matter, he noticed that while Johnson, Cade, and Good were huddled together, Johnson pointed at Good and told him: "[W3hatever you do, make sure you stick to your story." However, the juror did not overhear what was said immediately before or after that comment. The juror did not believe anyone had testified yet when the comment was made.[21] Appellant's brother stated he saw appellant about 11 p.m. on August 17, 1992, at 204 West 118th Street. However, none of the defense witnesses knew appellant's whereabouts at

(Fn. 1 Cont'd.)

lineup, Cade told the police she was afraid and did not want to get involved. After Good identified appellant by nickname and description as the shooter when interviewed by the police, Good asked the police to deny that he had spoken to them and threatened he would kill someone if he was subpoenaed or the police went to his mother's house. At a photographic lineup containing appellant's photograph, Good selected the photograph of someone other than appellant but whose complexion most resembled that of appellant, stating that person's complexion favored the shooter but Good was uncertain whether he was the shooter. Good did not identify appellant at trial. Good stated that he is concerned about his family's safety, that the shooter lives in his community, and

that when one is a snitch, people get hurt.

2. The first trial resulted in declaration of a mistrial because the jury was deadlocked. During the prosecution's case-in-chief in the second trial, Johnson and Cade testified that, during a recess in the previous trial, Johnson told Cade to stick to her story. Johnson stated Cade was upset and felt as if she was lying on the witness stand because of the manner in which she was being questioned. Johnson said that, after asking Cade whether she was telling the truth, Johnson remarked, "'Well[,] continue to Stick with your story[;] just tell the truth."

the time of the shooting. Although appellant had casts on both arms, he was able to use his fingers to dial the phone and brush his hair.

CONTENTIONS

Appellant contends (1) that the trial court improperly precluded defense counsel from asking Good whether he intended to buy cocaine from Johnson, from questioning Johnson, Cade, and Good about cocaine use more than 24 hours from the time of the offense, and from introducing evidence that the police found no money on the victim's person and that cocaine was in the victim's system when he died, (2) that appellant's motion for mistrial should have been granted because a police officer improperly testified in a manner that indicated appellant was a gang member, and (3) that the restitution fine should be reduced to $100. Appellant asserts that, if his attorney's failure to object to imposition of a restitution fine above the statutory minimum that applies to crimes committed in August 1992 constituted a waiver of any challenge to a fine greater than $100, appellant received ineffective assistance of counsel at the sentencing hearing.

DISCUSSION

1. Restriction of Questioning of Prosecution Witnesses

In opposition to the prosecutor's motion

before trial to preclude introduction of evidence whether the victim had money on his person or cocaine in his blood when he was killed and whether any witnesses used cocaine beyond a period of 24 hours from the time of the offense, defense counsel argued evidence the victim had cocaine in his system and no money on his person and possible evidence that Cade, who was unemployed, Johnson, or Good frequently used cocaine were relevant to support a theory that someone else killed the victim after giving him cocaine and stealing his money. The prosecutor stated that in the previous trial appellant testified he regularly sold drugs to Cade or sold drugs to her on one or two occasions. The trial court ruled the evidence that the victim had no money on his person and had cocaine in his system was inadmissible because it was irrelevant. The court ruled that during the case-in-chief evidence of any cocaine use by prosecution witnesses must be limited to 24 hours from the time of the offense because any additional use was irrelevant.

During trial, appellant urged the trial court to allow introduction of evidence there was cocaine in the victim's system and no money on the victim's person to support a theory that Good was the killer since Good intended to purchase cocaine and cocaine users often steal. The trial court stated that its ruling had not changed and that evidence the victim had no money on his person was irrelevant.

At an Evidence Code section 402 hearing

during trial, the prosecutor argued defense counsel should not be permitted to ask Good from which house he intended to purchase cocaine on the date of the offense. Defense counsel stated he believed Good would testify he intended to buy cocaine from Johnson, her son, or both of them. Defense counsel asserted that testimony should be allowed to establish bias and motive. The trial court ruled that whether Johnson was selling cocaine was irrelevant and that defense counsel therefore could not ask Good from whom or from which house he planned to buy cocaine. The contention that the trial court improperly restricted defense questioning of prosecution witnesses is unavailing. In light of Johnson's testimony that before the shooting she disliked appellant and that one reason she did not provide the police with all the information she had about the shooting when she was first questioned was to protect the safety of Cade and Good, her statement to the police that she had warned the victim to stay away from appellant, her conflicting statements that she was up at 3 a.m. because she planned to take her 14-year-old daughter to breakfast or because she was celebrating her daughter's 14th birthday, her other inconsistent statements, Cade's inconsistent statements, Good's testimony he was in the area to buy or beg for cocaine, Good's comment to the police that he had a problem with cocaine, Good's many inconsistent statements, and the former

juror's testimony regarding the conversation he overheard between Johnson and Good, any evidence that Good had planned to buy cocaine from Johnson or testimony by Johnson, Cade, or Good that any of them used cocaine more than 24 hours from the time of the offense would not reasonably have produced a significantly different impression of the credibility of any of these witnesses. (People v. Cooper (1991) 53 Cal.3d 771, 816–818; People v. Belmontes (1988) 45 Cal.3d 744, 780–781.)

The trial court properly precluded introduction of evidence that the victim had cocaine in his system when he died and that the police did not find any money on the victim's person. Evidence of a motive or opportunity for a third party to commit a crime is insufficient to raise a reasonable doubt as to the defendant's guilt unless there is direct or circumstantial evidence linking the third party to the crime. (People v. Alcala (1992) 4 Cal.4th 742, 792–793; People v. Edelbacher (1989) 47 Cal.3d 983, 1017–1018.) Because there was neither direct nor circumstantial evidence linking Good or any other third party to the shooting, the trial court did not err in excluding evidence that the victim had cocaine in his system when he died and that the police did not find any money on the victim's person. (Ibid.)

2. Gang Evidence

Cade testified that at the time of the

shooting she was standing in front of 'a neighbor's house with Good and Dempsey. During cross-examination of Los Angeles Police Officer Gerald Alford, the chief investigating officer, defense counsel asked whether the officer ever contacted Dempsey. Officer Alford responded: "I attempted to several times. Mr. Dempsey had a felony outstanding warrant and he was another 8-Trey gangster, and be would refuse to return my phone calls. [IF) I understand he's just recently been incarcerated again, so I will make another attempt to contact him, but during this investigation' on several occasions, he refused to come to the door. I had seen him at the location and then he'd run into the house."
Defense counsel moved for a mistrial on the grounds the officer's reference to gang membership was prejudicial because the officer gestured toward appellant when he said "another 8-Trey gangster." The trial court and prosecutor stated they saw the officer's hand move in appellant's direction but did not see the officer point at appellant. The trial court denied the motion for mistrial, struck all portions of the officer's answer after the sentence that he attempted to contact Dempsey several times, and admonished the jury to disregard all parts of that answer other than the officer's statement that he did not interview Dempsey. In addition, the trial court asked that any jurors who could not follow the admonition raise their hands. The record does not reflect

that any juror's hand was raised.

The contention that the trial court erred in denying appellant's motion for mistrial fails. In view of the lack of any express reference to appellant when Dempsey's gang membership was mentioned and the trial court's admonition, to the jury to disregard the officer's reference to gang membership, it is not reasonably probable that appellant would have obtained a more favorable result absent the officer's response to defense counsel's question. (See People v. Gould (1960) 54 Cal.2d 621, 627-628; People v. Luparello (1986) 187 Cal.App.3d 410, 427.)

3. Restitution Fine~

Appellant was sentenced on September 15, 1993. After pronouncing sentence, the trial court advised appellant of his right to appointed counsel and a free transcript on appeal if appellant was indigent and ordered appellant to pay a $200 restitution fine, stating: "If you cant afford to hire an attorney on appeal, the Court of Appeal will appoint one for you. [11) If you can't afford to get a transcript, they will also provide a free [transcript]. [If) You do have to pay a $200 restitution fine."

When the offense was committed, former Government Code section 13967, subdivision (a), provided in pertinent part:

"[I]f the person is convicted of one or more felony offenses, the court shall impose a . . . restitution fine of not less than one hundred dollars ($100) and not more than ten thousand dollars ($10,000). In setting the amount of the fine for felony convictions, the court shall consider any relevant factors including, but not limited to, the seriousness and gravity of the offense and the circumstances of its commission, any economic gain derived by the defendant as a result of the crime, and the extent to which others suffered losses as a result of the crime. Those losses .may include pecuniary losses to the victim or his or her dependents as well as intangible losses, such as psychological harm caused by the crime." (Stats. 1991, ch. 657, § 1, 5 Deering's Adv. Legis. Service, p. 2733.) Former Government Code section 13967, subdivision (a), was amended, effective September 12, 1992, to provide that the minimum restitution fine was $200. (Stats. 1992, ch. 682, § 4, 5 Deering's Adv. Legis. Service, p. 2491.)

The contention that the trial, court erred in imposing a $200 restitution fine is unavailing. In light of the gravity of the offense, the restitution fine was not excessively high. Imposition of that fine after advisement of appellant's right to appeal and to obtain appointed counsel and a free transcript on appeal if appellant was indigent does not itself indicate the trial court intended to

impose the statutory minimum fine, and the record does not otherwise so reflect. In view of appellant's lengthy sentence, the trial court could reasonably have determined that the fine could be paid from appellant's prison wages if appellant was indigent. (People v. Frye (1994) 21 Cal. App.4th 1483, 1485-1487.)

Because the record does not reflect that appellant would have obtained a more favorable result if his attorney had pointed out at the sentencing hearing that the statutory minimum amount for a restitution fine for a felony committed in August 1992 was $100, appellant has not established that he received ineffective assistance of counsel at the sentencing hearing. (People v. Kelly (1992) 1 Cal.4th 495, 519-520.)

DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED.

EXHIBIT D SUPERIOR COURT EVIDENTIARY HEARING ON HABEAS CORPUS

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
DEPARTMENT SC 0 HON. GARY W. DAIGH, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. ROBERT LEE BROADNEX, Defendant	) Case No.: NO. TA020

REPORTER'S TRANSCRIPT OF PROCEEDINGS
JULY 16, 22, 2004

APPEARANCES:

FOR THE PLAINTIFF:
STEVE COOLEY, DISTRICT ATTORNEY
BY, REBECCA MADRID, DEPUTY
200 WEST COMPTON BOULEVARD, 7TH FLOOR
COMPTION, CALIFORNIA

FOR THE DEFENDANT:
MARILEE MARSHALL. ESQUIRE
523 WEST SIXTH STREET
SUITE 1109
LOS ANGELES, CA 90014

(COVER RETYPED FOR THIS PETITION)

INDEX OF WITNESSES

PEOPLE'S WITNESSES
Marry Mills

DEFENDANT' S WITNESSES
CADE, DAPHNE
BROADNEX,
MIRIAM
MORISETTE, KEITH
(PAGE NUMBERS ELIMINATED FOR THIS DOCUMENT.)

COMPTON, CALIFORNIA; FRIDAY, JULY 16, 2004
9:30 A.M.
DEPARTMENT NO. SC 0 HON. GARY E. DAIGH, JUDGE
APPEARANCES:
THE DEFENDANT WITH HIS COUNSEL, MARILEE MARSHALL AND SEINA TAKAMATSU, ESQUIRE;
COUNTY; REBECCA MADRID, DEPUTY DISTRICT ATTORNEY FOR THE COUNTY OF LOS ANGELES,
REPRESENTING THE PEOPLE OF THE STATE OF CALIFORNIA.

(DONNA MARIE REED, CSR #8897, OFFICIAL REPORTER.)

THE COURT: ALL RIGHT. LET'S GO ON THE CASE OF PEOPLE VERSUS BROADNEX. LET' S HAVE THE APPEARANCES PLEASE.
MR. MARSHALL: MAR ILEE MARSHALL ON BEHALF OF MR. BROADNEX, PETITIONER.
MS. TAKAMATSU: SEINA TAKAMATSU FOR MR. BROADNEX.
THE COURT: AND FOR THE PEOPLE?
MS. MADRID: REBECCA MADRID FOR THE PEOPLE, YOUR HONOR.
THE COURT: OKAY. WE'RE HERE TO HOLD AN EVIDENTIARY HEARING ON THE ISSUES RAISED BY THE

PETITION FOR WRIT OF
HABEAS CORPUS AND THE VARIOUS DOCUMENTS. WE LAST SAW DEFENSE COUNSEL BACK ON MAY 2 1ST. WE SET TODAY TO GET THE WITNESSES HERE. I ASSUME THAT YOU HAVE WITNESSES?

MR. MARSHALL: YOUR HONOR, I HAVE MS. CADE.

UNFORTUNATELY MR. MORISETTE HAD A SEIZURE AND IS NOT HERE. I WOULD PREFER TO GO ON WITH MS. CADE AND THEN ASK THE COURT TO PERHAPS LET US BRING IN MR. NORISETTE. I SPOKE WITH MISS MADRID AND SHE IS NOT AVAILABLE UNTIL NEXT FRIDAY. NEXT FRIDAY WE CAN BRING HIM. I'M SURE HE WILL RECOVER. HE DOES HAVE SEIZURES REGULARLY, BUT THEY USUALLY DON' T LAST.

THE COURT: WHAT KIND OF SEIZURE?

MR. MARSHALL: WELL, I REALLY DON'T HAVE THE MEDICAL RECORDS, BUT IT IS A LIFE-LONG PROBLEM. EPILEPSY, I WOULD IMAGINE. I WOULDN'T WANT TO REPRESENT EPILEPSY REALLY, BUT THAT WOULD BE MY TAKE ON HOW IT WAS DESCRIBED TO ME THAT IT HAPPENED.

THE COURT: WHEN DID IT HAPPEN?

MR. MARSHALL: I THINK IT WAS ON THURSDAY.

THE COURT: YESTERDAY?

MR. MARSHALL: YESTERDAY -- NO. I'M SORRY. PROBABLY WEDNESDAY NIGHT.

THE COURT: WELL, LET'S GO WITH WHAT YOU'VE GOT. THE ONLY REASON I' M

HESITATING IS WE ARE IN TRIAL ALL THE TIME.

WE SET ASIDE THIS MORNING FOR THIS. WE ARE TRYING TO ARGUE A CASE THIS AFTERNOON.

MR. MARSHALL: I DO APOLOGIZE. I HAD HOPED HE WOULD BE BETTER TO COME TODAY, BUT NO ONE HAS HEARD FROM HIM SINCE HE WAS TAKEN AWAY IN THE AMBULANCE TO DANIEL FREEMAN.

THE COURT: LET'S DO WHAT YOU HAVE. THEN WE WILL TAKE THAT ISSUE UP AFTER WE LITIGATE THIS. ALL RIGHT?

IS THERE A MOTION TO EXCLUDE WITNESSES?

MS. MADRID: YOUR HONOR, MY UNDERSTANDING IS THAT

1 THERE IS ONLY ONE WITNESS HERE TODAY.
2 THE COURT: ALL RIGHT. SO THERE IS NOT A MOTION TO
3 EXCLUDE WITNESSES?
4 MR. MARSHALL: WELL, TO BE HONEST WITH THE COURT,
5 THERE ARE WITNESSES TO -- I HAVE MR. BROADNEX'S FAMILY HERE
6 AND THERE IS APPARENTLY SOME QUESTION ABOUT WHICH COUNSEL
7 MIGHT GO INTO ABOUT HOW THE CONTACT WAS MADE IN THIS CASE SO
8 THEY WOULD BE WI TNESSES TO THE CONTACT.
9 MS. MADRID: AND THAT' S TRUE, YOUR HONOR. THAT WOULD
10 BE MS. MILLS, I BELIEVE.
11 THE COURT: SO YOU WANT ME TO EXCLUDE ANY POTENTIAL
12 WITNESSES OTHER THAN THE FIRST WITNESS, RIGHT?
13 MS. MADRID: YES.
14 THE COURT: OKAY. SO WHOEVER MAY BE A WITNESS IN THIS
15 HEARING, I DON'T KNOW, CAN'T BE HERE WHILE OTHER WITNESSES
16 ARE TESTIFYING SO YOU HAVE TO BE EXCUSED. AND MS. MARSHALL,
17 WHOEVER IT IS YOU THINK MAY TESTIFY, YOU' LL HAVE TO HAVE THEM
18 EXCUSED.
19 MR. MARSHALL: THAT WOULD BE MRS. BROADNEX AND
20 MR. BROADNEX'S SISTER.
21 THE COURT: WHOEVER YOU ARE, YOU KNOW AND YOU' LL HAVE
TO STEP OUTSIDE UNTIL IT'S YOUR TIME TO

TESTIFY.

(INTERRUPTION IN PROCEEDINGS.)

THE COURT: OKAY. THEN READY TO GO?

MR. MARSHALL: YES, YOUR HONOR. WE WOULD CALL DAPHNE CADE PLEASE.

THE COURT: OKAY. MA'AM, IF YOU WOULD PLEASE COME FORWARD. AND JUST IF YOU WOULD STOP. RAISE YOUR RIGHT HAND TO BE SWORN.

DAPHNE CADE,
CALLED AS A WITNESS BY THE DEFENDANT, WAS SWORN AND TESTIFIED AS FOLLOWS:
THE CLERK: YOU DO SOLEMNLY STATE THAT THE TESTIMONY
YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL
BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO
HELP YOU GOD.

THE WITNESS: YES, I DO.
THE CLERK: PLEASE HAVE A SEAT.
MA'AM, WOULD YOU PLEASE STATE AND SPELL YOUR FULL NAME FOR THE RECORD SLOWLY.

THE WITNESS: DAPHNE CADE, D-A-P-H-N-E, C-A-D-E.
THE COURT: OKAY. MS. CADE, THANK YOU. KEEP YOURVOICE UP REAL LOUD.
BY MS. MARSHALL
MS. MARSHALL, PLEASE PROCEED. DIRECT EXAMINATION
Q. MS. CADE, DO YOU KNOW THE MAN SEATED TO MY RIGHT?

A. YES, I DO.

Q. DO YOU REMEMBER BACK IN '83 TESTIFYING AT A TRIAL
HERE --

THE COURT: DO YOU KNOW WHAT? I'M NOT THAT OLD.

MR. MARSHALL: I 'M SORRY. '93. I AM, UNFORTUNATELY.

Q. BY MR. MARSHALL: BACK IN '93 --

A. YES, I DO.

Q. -- DO YOU REMEMBER TESTIFYING AT A TRIAL THAT YOU SAW HIM SHOOT SOMEBODY?

A. YES, I DO.

Q. WERE YOU TELLING THE TRUTH?

A. NO.

Q. DO YOU REMEMBER THE SHOOTING THAT TOOK PLACE IN YOUR NEIGHBORHOOD BACK IN AUGUST OF '92?

A. NO.

Q. DO YOU REMEMBER GOING HOME ONE NIGHT AND SEEING - - OR GOING BACK TO WHERE YOU WERE STAYING AND SEEING THE POLICE TAPE?

A. YES.

Q. AND DID YOU SEE A BODY ON THE STREET?

A. YES.

Q. SO YOU DO REMEMBER THAT?

A. YES.

Q. WERE YOU THERE WHEN THE SHOOTING HAPPENED?

A. NO, I WASN'T.

Q. WHY DID YOU COME IN TO COURT AND TESTIFY THAT YOU SAW MY CLIENT DO THIS?

25 A. BECAUSE WHERE I WAS STAYING AT, THE LADY NAME IS
26 DEBRA JOHNSON. HER AND THE DETECTIVES TOLD ME THAT'S WHAT I
27 HAD TO SAY.
28. DID MISS JOHNSON TELL YOU ANYTHING ABOUT THE [LINE NUMBERS IN ORIGINAL] MURDER?
A. YES.
MR. MARSHALL: I'M OFFERING THIS JUST FOR ITS EFFECT ON MS. CADE, NOT FOR THE TRUTH OF THE MATTER. I'M ELICITING HEARSAY.
A. YES
BY MR. MARSHALL: WHAT DID MS. JOHNSON TELL YOU ABOUT THE MATTER, ABOUT THE MURDER?
A. TOLD ME WHAT TO SAY.
Q. YEAH. WHAT DID SHE TELL YOU? DID SHE TELL YOU SHE SAW THE MURDER?
A. YES
Q. AND WHAT DID SHE TELL YOU TO SAY? AND WHAT DID SHE TELL YOU TO SAY?

A. TO TELL ME THAT I SEEN MR. BROADNEX DO IT.
Q. AND DID YOU ULTIMATELY TELL THE DETECTIVE THAT YOU SAW IT?
A. EXCUSE ME?
Q. DID YOU ULTIMATELY TELL THE DETECTIVE THAT YOU SAW HIM DO THE SHOOTING?
A. NO I DIDN'T TELL THE DETECTIVE THAT. I TOLD HIM THAT I DID NOT SEE IT.
Q. DID YOU KNOW THAT MR. BROADNEX HAD CASTS ON HIS HANDS?
A. NO, I DON'T.
Q. WHY WOULD DEBRA JOHNSON, IF YOU KNOW, TELL YOU TO SAY THAT MR. BROADNEX COMMITTED THE MURDER?

MS. MADRID: OBJECTION. CALLS FOR SPECULATION.
THE COURT: WELL, THAT OBJECTION IS SUSTAINED. WHAT
OF COURSE SHE TOLD THE WITNESS ABOUT THAT WOULD BE ADMISSIBLE. SO WHAT MS. JOHNSON TOLD MS. CADE ABOUT THAT.SO JUST REPHRASE THE QUESTION.
Q. BY MR. MARSHALL: WHAT DID DEBRA JOHNSON TELL YOU ABOUT THE MURDER AT ALL? TELL US EVERYTHING THAT MS. JOHNSON TOLD YOU.
A. SHE TOLD ME WHAT SHE SEEN
Q. WHAT DID SHE SAY SHE SEEN?
A. THAT SHE SEEN MR. BROADNEX PUT THE GUN TO THE MAN'S HEAD.
Q. DID SHE TELL YOU WHAT IT WAS ABOUT?
A. NO, SHE DIDN'T.
Q. WERE YOU STAYING WITH DEBRA JOHNSON?
A. YES, I WAS.
Q. AND WAS THERE DRUG DEALING GOING ON IN THAT HOUSE?
A. YES
Q. DO YOU KNOW THE PERSON THAT WAS KILLED?
A. YEAH.
Q. DID HE LIVE THERE?
A. NO.
Q. MR. MARSHALL: I HAVE NOTHING FURTHER.
THE COURT: OKAY. MS. MADRID, THEN CROSS-EXAMINATION

CROSS -EXAMINATION

BY MS. MADRID

Q. MS CADE, IS THAT HOW YOU PRONOUNCE IT?

A. MS. CADE.

Q. MS. CADE. MS. CADE, WHO DROVE YOU TO COURT

A. MIRIAM, MS. BROADNEX.
Q. AND WHO IS MIRIAM BROADNEX?
A. MR. BROADNEX'S WIFE.
Q. AND DO YOU KNOW WITHOUT GIVING US AN ADDRESS DO YOU KNOW- WHERE MS. BROADNEX LIVES
A. NO, I DON'T.
-IN THE NEIGHBORHOOD?
Q. NOW, IT WAS MS. BROADNEX THAT TOLD YOU TO COME TO COURT; ISN'T THAT TRUE?
A. NO, IT'S NOT.
Q. IT'S NOT TRUE THAT MS. BROADNEX TOLD YOU TO COME TO COURT?
A. NO. SHE DIDN'T TELL ME TO COME TO COURT.
Q. NOW, WHERE WERE YOU LIVING AT THIS TIME, THE GENERAL AREA.

A. ON 84TH PLACE, WHERE I'VE BEEN THERE ALL MY LIFE.

Q. AND WHO DO YOU LIVE WITH?

A. I STAY WITH MY SISTER.

Q. AND HAVE YOU EVER BEEN HOMELESS, MS. CADE?

A. YES, I HAVE.
GENERAL AREA?

Q. AND 84TH PLACE -- HOW FAR AWAY FROM THAT WAS THE PLACE WHERE THE SHOOTING HAPPENED?
A. DIAGONALLY ACROSS THE STREET. IT'S A LITTLE BIT AWAYS.

Q. AND HOW FAR AWAY FROM DEBRA JOHNSON' S HOUSE IS WHERE YOU'RE LIVING NOW?
A. FAR AWAY.
Q. FAR AWAY?
A. YES.
Q. BUT DIDN'T THE SHOOTING HAPPEN IN FRONT OF DEBRA
JOHNSON'S HOUSE?
A. I GUESS IT DID.
Q. SO ISN' T DEBRA JOHNSON' S HOUSE THEN JUST ACROSS
THE WAYS FROM WHERE YOU' RE LIVING NOW?
A. NO, IT'S NOT.
Q. SO HAS DEBRA JOHNSON MOVED SINCE THE TIME OF THE SHOOTING?

A. I GUESS SHE HAVE. I DON'T KNOW. I'M NOT LOOKING FOR HER.
Q. HAVE YOU SEEN HER --
A. NO, I HAVEN'T.
Q. OKAY. YOU HAVE TO WAIT UNTIL I FINISH THE QUESTION BECAUSE THE REPORTER CAN ONLY TYPE US ONE AT A TIME. OKAY?

A. GO AHEAD.

Q. NOW, IN THE PAST 12 YEARS SINCE THE NIGHT OF THE SHOOTING IN AUGUST OF 1992 HAVE YOU SEEN DEBRA JOHNSON?

A. NO, I HAVEN'T.
Q. AND IN THE PAST 12 YEARS SINCE THE SHOOTING IN *1992* HAVE YOU SEEN MS. MIRIAM BROADNEX?

A. NO.

Q. YOU HAVE NOT SEEN HER AT ALL SINCE THE TIME OF THE SHOOTING?
A. YEAH. I'VE SEEN HER A COUPLE OF TIMES.
Q. OKAY.
A. OKAY.
Q. SO WHEN DID YOU SEE HER THOSE COUPLE OF TIMES?
A. WHAT DO YOU MEAN?
Q. JUST WHAT I'M ASKING YOU. WHEN WAS THE FIRST SAW MS. BROADNEX AFTER THE SHOOTING IN 1992?

A. OH, IT WAS SOME MONTHS.

Q. IT WAS SOME MONTHS AFTER THE SHOOTING?
A. WAY LONG MONTHS.

Q.AND SO THEN YOU WOULD HAVE SEEN MS. MIRIAM AFTER YOU TALKED TO THE DETECTIVES, CORRECT?

A. EXCUSE ME?

Q YOU WOULD HAVE SEEN MS. BROADNEX AFTER YOU TALKED TO THE POLICE?
A. NO. WHY WOULD YOU FIGURE THAT?
Q. I'M ASKING YOU, DID YOU?
A. NO.
Q. BUT YOU SAW HER SOME MONTHS AFTER THE SHOOTING,

A. YEAH. WAY AFTER THIS WAS ALL OVER WITH.

Q. OKAY. NOW, DID YOU SEE MS. BROADNEX BETWEEN THE YOU TESTIFIED AT THE TRIAL -- ABOUT THE SHOOTING BETWEEN THEN AND TODAY' DATE?
A. NO
Q. YOU HAVE NOT SEEN MS. BROADNEX BETWEEN THAT TIME?
A. NO. NO.
Q. ARE YOU AFRAID OF MS. BROADNEX?
A. NO I'M NOT.
Q. NOW YOU SAY YOU SAW MS. BROADNEX SOME MONTHS AFTER THE ACTUAL SHOOTING ITSELF, CORRECT?
A. AFTER THE WHOLE TRIAL WAS OVER WITH, EVERYTHING.
Q. OKAY
A. 'CAUSE I WAS LOOKING FOR SOMEBODY BECAUSE I FELT BAD ON SENDING THIS MAN TO JAIL FOR SOMETHING I DID NOT SEE HIM DO.
Q. OKAY. SO WHEN YOU FELT BAD, DID YOU TALK TO ANYBODY ELSE OTHER THAN MS. BROADNEX?

A.YES, I DID.

Q.AND WHO DID YOU TELL?

A. MY FAMILY.

Q. AND WHO WOULD THAT BE? SPECIFICALLY WHO IN YOUR FAMILY?

A. MY MOM, MY DAD.

Q. AND YOUR MOM AND DAD, THEY LIVE IN THE SAME NEIGHBORHOOD YOU LIVE IN?
A. NO, •THEY DON'T.

Q. THEY DON'T?
A. NO, THEY DON'T.

Q. WHERE DO THEY LIVE JUST GENERALLY?

A. I'D RATHER NOT SAY. I'D RATHER NOT SPEAK ON THAT.

Q. JUST WHICH CITY DO THEY LIVE IN?

A. I'D RATHER NOT SPEAK ON THAT.

MS. MADRID: YOUR HONOR, I WOULD ASK THAT THE COURT --

THE COURT: WHAT CITY DO YOUR MOM AND DAD LIVE IN?

WITNESS: LONG BEACH.

COURT: THANK YOU.

BY MS. MADRID: AND DO THEY HAVE A CAR?

A. THEY SURE DO.

Q. AND DO YOU HAVE A CAR?

A. NO, I DON'T.

Q. NOW, WHEN DID YOU TELL YOUR PARENTS THAT YOU HAD LIED AT TRIAL
A. EXCUSE ME?

Q. WHEN DID YOU TELL YOUR PARENTS THAT YOU HAD - -

A. THE SAME DAY THAT I WENT.

Q. THE SAME DAY THAT YOU TESTIFIED?
A. YES.

Q. NOW, DID YOUR PARENTS COME TO THE TRIAL TO SUPPORT YOU?

A. NO, MY PARENTS DIDN' T.

Q. NOW, DID YOU EVER GO BACK TO THE POLICE AFTER THE TRIAL?

A. NO, I DID NOT.

THE COURT (REPORTER?): YOU KNOW, MS. CADE, IT' S TOUGH FOR ME TO

WRITE DOWN WHAT YOU'RE SAYING AND THE QUESTION BECAUSE YOU'RE ANSWERING TOO QUICKLY.

THE WITNESS: OKAY. I APOLOGIZE.

THE COURT: THAT' S OKAY. JUST WAIT UNTIL THE D . A. IS DONE WITH HER QUESTION AND THEN SHE WON' T INTERRUPT YOUR ANSWER. OKAY?

THE WITNESS: OKAY.

THE COURT: GO AHEAD.

Q. BY MS. MADRID: NOW, DID YOU TALK TO

THE POLICE AFTER THE TRIAL WAS ALL OVER WITH AND TELL THEM THAT YOU HAD IN FACT LIED AT TRIAL AND YOU WANTED TO SET THE RECORD STRAIGHT?
A. NO.
Q. WHY IS THAT?

A. I DIDN'T. 'CAUSE I JUST DIDN'T.

Q. BECAUSE YOU JUST DIDN'T. NOW, AFTER -- WHEN DID YOU MOVE OUT OF DEBRA JOHNSON'S HOUSE?

A. EXCUSE ME?

Q. WHEN DID YOU MOVE OUT OF DEBRA JOHNSON' S TRAILER? YOU LIVED IN A TRAILER ON HER PROPERTY, CORRECT?

A. NO. I LIVED IN THE HOUSE WITH HER GRANDMOTHER.

Q. OKAY. AND THAT WAS AT THE TIME OF THE SHOOTING,
A. YES.

Q. WHEN DID YOU MOVE OUT? WHEN WERE YOU NO LONGER LIVING WITH DEBRA JOHNSON?

A. I HAD STOPPED LIVING THERE BEFORE THE SHOOTING. I WAS JUST GOING BACK AND FORTH.

---

1 Q. OKAY. SO YOU DID NOT LIVE WITH DEBRA JOHNSON AT
2 THE TIME OF THE SHOOTING?
3 A. NO.
4 Q. AND YOU SAY THAT DEBRA

JOHNSON TOLD YOU WHAT TO
SAY AT TRIAL, CORRECT?
A. YES.
Q. NOW, AFTER THE TRIAL WAS OVER FOR THE SECOND TIME
IN 1993, WERE YOU STILL LIVING WITH DEBRA JOHNSON?
A. NO.
Q. AND FROM THE TIME AS YOU SIT HERE NOW IN COURT TO
THE TIME THAT YOU LAST TESTIFIED AT TRIAL IN AUGUST OF - - OF
DECEMBER OF 1993 HAVE YOU LIVED WITH DEBRA JOHNSON?
A. NO.
Q. BUT IN ALL OF THOSE 12 -- 11, 12 YEARS -- I'M
SORRY. I'M TRYING YOUR PATIENCE. I DON'T MEAN THAT. BUT IN
ALL OF THOSE 12 YEARS YOU NEVER CAME FORWARD TO TELL ANYBODY
THAT YOU HAD LIED AT TRIAL; ISN'T THAT TRUE?
A. NO.
Q. AND YET TODAY YOU'RE COMING IN HERE AND SAYING I
LIED, CORRECT?
A. NO. I'VE BEEN WANTING TO TALK TO SOMEBODY. I
JUST DIDN'T KNOW WHO TO TALK TO.
Q. WELL, YOU KNEW THAT MR. BROADNEX HAD A WIFE,
CORRECT?
A. NO.
Q. DID YOU KNOW THAT HE HAD PEOPLE IN THE
NEIGHBORHOOD?

28
OF COURSE. I KNOW HIS PEOPLE TOO.

Q. YOU KNOW HIS PEOPLE?
PEOPLE?
A. YES, I DO.

Q. WHY DIDN'T YOU COME FORWARD TO TALK TO HIS PEOPLE?

A. BECAUSE I DIDN' T HAVE THE NUMBER OR ADDRESS TO REACH THEM.
THAT'S WHY.

Q. OKAY. BUT YOU KNOW THE NEIGNBORHOOD, CORRECT?

A. WELL, YES.

Q. AND YOU KNOW PEOPLE IN THE NEIGHBORHOOD WHO HAVE PHONES, ISN'T THAT TRUE?
A. TRUE.
Q. AND EVERY NOW AND THEN CERTAINLY YOU HAVE 50 CENTS OR A QUARTER AND YOU COULD CALL ON A PAY PHONE?

A. I SAID I DID NOT HAVE A NUMBER.

Q. OKAY. YOU KNOW PEOPLE, THOUGH, WHO MAY HAVE KNOWN A NUMBER, CORRECT?

A. NO, I DON'T.

Q. DID YOU EVER PUT WORD OUT ON THE STREET --

A. NO.

Q. - - THAT YOU WANTED TO TELL THE TRUTH?

A. NO.

Q. YOU DID NOT.

MS. MADRID: I HAVE NOTHING FURTHER.

THE COURT: WELL, I HAVE SOME QUESTIONS. ON THE NIGHT OF THE MURDER WHERE WERE YOU PHYSICALLY LIVING?

THE WITNESS: I WAS STAYING AT DEBRA' S.

THE COURT: OKAY. AND WHEN DID YOU STOP STAYING AT DEBRA'S IN RELATION TO THE NIGHT OF THE SHOOTING?

THE WITNESS: LIKE THE DAY BEFORE - - I REALLY WASN' T

STAYING THERE THAT NIGHT. I WAS GOING BACK THERE.

THE COURT: DID YOU GO BACK THERE AFTER THE SHOOTING?

THE WITNESS: YES, AFTER.

THE COURT: FOR HOW LONG DID YOU CONTINUE TO GO BACK
AND VISIT DEBRA JOHNSON?

THE WITNESS: NOT TOO LONG.

THE COURT: WELL, DAYS? WEEKS?

MONTHS? -

9 THE WITNESS: NO. MAYBE A COUPLE OF DAYS.

10 THE COURT: DO YOU REMEMBER THE NIGHT OF THE SHOOTING?

11 THE WITNESS: NOT REALLY.

12 THE COURT: YOU SAID THAT YOU DIDN'T PHYSICALLY SEE

13 ANYBODY KILL THE VICTIM IN THIS CASE, RIGHT?

14 THE WITNESS: NO, I DIDN'T.

15 THE COURT: DID YOU EVER GO TO THE SCENE OF THAT CRIME

16 THAT NIGHT?

17 THE WITNESS: NO.

18 THE COURT: DID YOU EVER HEAR GUNSHOTS THAT NIGHT?

19 THE WITNESS: ME AND KEITH WERE COMING UP VERMONT AND

20 WE COULD HEAR THEM. AND I TOLD HIM, I SAID, "WHAT WAS THAT?

21 IT SOUNDED LIKE A GUNSHOT." THAT'S ALL I TOLD HIM.

22 THE COURT: AND WHAT DID YOU DO?

WHERE DID YOU GO?

THE WITNESS: WE WAS ON HIS WAY TO HIS HOUSE.

THE COURT: SO YOU DIDN'T GO TO THE SCENE OF THE INCIDENT?

THE WITNESS: NO.

THE COURT: WHAT SPECIFICALLY DID DEBRA JOHNSON TELL YOU TO SAY ABOUT THE MURDER?

THE WITNESS: SHE SAID IF THE POLICE ASK, OR THE DETECTIVES ASK, YOU TELL THEM THAT - WE CALL MR. BROADNEX FELLA. SO SHE TOLD ME TO SAY IF THEY ASK ME THAT I SEEN FELLA DO IT.

THE COURT: OKAY. AND YOU DIDN'T SEE FELLA DO IT?

THE WITNESS: NO.

THE COURT: WHY WOULD YOU TESTIFY THAT YOU DID?

THE WITNESS: THE DETECTIVES ALSO TOLD ME TO SAY THAT BECAUSE THEY TOLD ME IF I DIDN'T SAY IT

-- BECAUSE I WAS

10 HIDING FROM THEM.

11 THE COURT: WHY WERE YOU HIDING FROM THEM?

12 THE WITNESS: BECAUSE I DIDN'T SEE NOTHING SO WHY WAS

13 THEY HOUNDING ME?

14 - THE COURT: SO WHAT DID THE POLICE SAY THAT MADE YOU

15 LIE AT TRIAL?

16 THE WITNESS: TOLD ME WHAT TO SAY. THAT THEY WOULD

17 PUT ME IN JAIL.

18 THE COURT: SO DID THEY THREATEN TO PUT YOU IN JAIL

19 THEN?

20 THE WITNESS: YES. THEY HAD A WARRANT FOR ME AND

21 EVERYTHING.

22 THE COURT: WHAT WAS THE WARRANT FOR?

23 THE WITNESS: THE ONE THAT THE DETECTIVE - - I CAN' T

24 REMEMBER HIS NAME. HE TOLD ME TO TELL

MY BOYFRIEND THAT IT

25 WOULD BE A WARRANT FOR MURDER AND THEN HE SAID FOR - - HOW DO

26 YOU STATE IT? FOR NOT COMING AND MAKING A STATEMENT.

27 THE COURT: DID YOU HAVE OTHER THINGS OUTSTANDING AT

28 THE TIME LIKE WARRANTWISE?

---

1 THE WITNESS: NO.

2 THE COURT: YOU SAID YOU THINK THAT YOU DON' T REMEMBER

3 MR. BROADNEX HAVING CASTS ON HIS HANDS AND ARMS?

4 THE WITNESS: NO.

5 THE COURT: DID YOU -- LOOK AT THIS. THIS LOOKS LIKE

6 IT' S ENTITLED "DECLARATION OF DAPHNE CADE." AND SOMEBODY

7 WROTE THIS, SIGNED IT ALLEGEDLY ON MARCH 2 9TH, 2003. DO YOU
8 REMEMBER LOOKING AT THIS AND SIGNING THAT?

9 THE WITNESS: IT'S BEEN SO LONG, NO.

10 THE COURT: OKAY. DOES THAT LOOK LIKE YOUR SIGNATURE?

THE WITNESS: UN-HUH.

THE COURT: IS THAT "YES"?

THE WITNESS: YES.

THE COURT: OKAY. AND UP HERE IT SAYS THAT YOU KNOW

FOR A FACT THAT MR. BROADNEX HAD CASTS ON HIS ARMS AND DID

NOT DO THE MURDER. YOU DON'T REMEMBER WHETHER HE HAD CASTS -Y

OR NOT?

THE WITNESS: NO, I DON'T.

THE COURT: WHEN IS THE LAST TIME YOU SAW DEBRA JOHNSON FROM TODAY? HOW MANY YEARS AGO?

THE WITNESS: IT'S BEEN, OH, LIKE THREE OR FOUR YEARS.

THE COURT: SO YOU SAW DEBRA JOHNSON THREE OR FOUR YEARS AGO?

'\ THE WITNESS: UH-HUH. THE LAST TIME I SEEN DEBRA IS

LIKE A MONTH OR TWO AFTER WE WENT TO THE TRIAL.

THE COURT: SO THE TRIAL WAS, GEEZ, ABOUT 11 YEARS

AGO.

THE WITNESS: SQ THAT'S BEEN ABOUT HOW LONG I'VE SEEN

HER.

THE COURT: SO YOU HAVEN T SEEN HER FOR ABOUT 11 YEARS, RIGHT?

THE WITNESS: NO, I HAVEN' T.

THE COURT: WHEN DID YOU FIRST TELL SOMEBODY OTHER THAN YOUR PARENTS THAT YOU LIED AT TRIAL?

THE WITNESS: ABOUT FOUR OR FIVE MONTHS AGO.

THE COURT: OKAY. AND WHO DID YOU TELL?

THE WITNESS: TRACY.

THE COURT: WHO' S TRACY.

THE WITNESS: THAT'S FELLA'S SISTER.

THE COURT: THAT' S WHO?

THE WITNESS: MR. BROADNEX' S SISTER.

THE COURT: AND THAT WAS YOU SAID FOUR OR FIVE MONTHS AGO?

THE WITNESS: UH-HUH.

THE COURT: AND WHY DID YOU TELL HER?

THE WITNESS: 'CAUSE I WAS LOOKING FOR SOMEBODY TO TELL, HIS PARENTS, SOMEBODY, TO LET THEM KNOW.

THE COURT: WHY WOULD YOU

WAIT FOR TEN YEARS --
21 THE WITNESS: BECAUSE I DIDN'T KNOW WHERE THEY WERE.
22 IF I WOULD HAVE KNEW EXACTLY WHERE THEY WERE, THEN I WOULD
23 HAVE TOLD THEM. I DIDN'T HAVE A TELEPHONE NUMBER EITHER.
24 THE COURT: HOW DID YOU HAPPEN TO COME ACROSS THE
25 SISTER?
26 THE WITNESS: I WAS COMING UP THE STREET, COMING UP
27 VERMONT.
28 THE COURT: JUST HAPPENED TO SEE HER?
*

---

1 THE WITNESS: YES.

2 THE COURT: SO HAS THIS BEEN WEIGHING ON YOUR MIND?

3 THE WITNESS: YES, IT HAS.

4 THE COURT: IF IT HAD BEEN WEIGHING ON YOUR MIND, I'M

5 A LITTLE CONFUSED AS TO HOW YOU COULD WAIT TEN YEARS BEFORE

6 YOU JUST HAPPENED TO SEE SOMEBODY AND SAY, OH, BY THE WAY, I

7 LIED. IT DOESN'T MAKE ANY SENSE. WHY WOULDN'T YOU DO IT
8 SOONER?

9 THE WITNESS: BECAUSE I DIDN'T KNOW

WHERE THEY WERE.

THE COURT: AND IF YOU HAD NEVER SEEN HER, THEN YOU WOULD NEVER HAVE TOLD ANYBODY?

THE WITNESS: I PROBABLY WOULDN'T HAVE.

THE COURT: AFTER YOU STOPPED LIVING WITH DEBRA A COUPLE DAYS AFTER THE INCIDENT OR ABOUT THE INCIDENT, WHERE DID YOU MOVE TO OR WHO DID YOU LIVE WITH?

THE WITNESS: I WAS STAYING WITH A GIRL NAMED CASEY, THE GIRL I STAY WITH RIGHT NOW TODAY.

THE COURT: THAT' S ON 84TH STREET.

THE WITNESS: YES.

THE COURT: KEITH MORISETTE, IS HE YOUR BOYFRIEND NOW OR THEN?

THE WITNESS: THEN.

THE COURT: WHEN IS THE LAST TIME YOU SAW HIM?

THE WITNESS: LAST WEEK.

THE COURT: OH, OKAY. SO YOU THINK

YOU HEARD THE

26 SHOTS ABOUT THE TIME OF THE MURDER BUT DIDN'T GO TO SEE IF
27 ANYTHING HAPPENED?

THE WITNESS: NO

---

1 THE COURT: AND MR. BROADNEX, DID YOU KNOW HIM AT THE

2 TIME OF THE SHOOTING?

3 THE WITNESS: I'VE BEEN KNOWING MR. BROADNEX FOR

4 YEARS.

5 THE COURT: JUST SORT OF FRIENDS ON THE STREET?

6 THE WITNESS: UN - HUH.

7 THE COURT: "YES"?

8 THE WITNESS: NEIGHBORHOOD, YES.

9 THE COURT: HOW FAR -- WHEN YOU THINK YOU HEARD THE

10 SHOTS OF THE MURDER, DO YOU HAVE ANY IDEA ABOUT HOW FAR YOU

11 WERE FROM WHERE THE SHOOTING WAS?

12 THE WITNESS: NO, I DON' T.

13 THE COURT: WAS IT A BLOCK OR FIVE

BLOCKS OR YOU HAVE

NO IDEA?

THE WITNESS: COULD HAVE BEEN FIVE BLOCKS.

THE COURT: BUT YOU REALLY DON' T KNOW?

THE WITNESS: NO, I DON'T.

THE COURT: HOW MANY TIMES DID YOU TALK TO THE POLICE

ABOUT WHAT DEBRA TOLD YOU TO SAY?

THE WITNESS: THEY CAME AND GOT ME EVERY DAY.

THE COURT: AND DID YOU INITIALLY TELL THEM THAT YOU

DIDN'T SEE ANYTHING?

THE WITNESS: YES. YES.

THE COURT: AND HOW MANY TIMES DID THEY TALK TO YOU

UNTIL BASICALLY WHEN YOU SAID I DID SEE SOMETHING?

THE WITNESS: ABOUT FOUR OR FIVE TIMES. FIVE TIMES AT

THE MOST.

28 THE COURT: AND YOU TOLD YOUR PARENTS THE DAY THAT YOU

TESTIFIED THAT YOU HAD TESTIFIED FALSELY, RIGHT?

THE WITNESS: YES.

THE COURT: WHAT DID THEY TELL YOU?

THE WITNESS: THAT I SHOULDN' T HAVE DID IT.

THE COURT: DIDN'T THEY TELL YOU TO TELL SOMEBODY ABOUT IT?

THE WITNESS: YES. MY MOM DID BUT I WAS TELLING MY MOM I COULDN'T FIND NOBODY.

THE COURT: YOU KNOW WHERE MR. BROADNEX' S FAMILY LIVED?
WITNESS: NO, I DON' T.

COURT: YOU DID BACK THEN, DIDN'T YOU?

WITNESS: NO. HE USED TO BE IN OUR NEIGHBORHOOD.

COURT: DID YOU KNOW WHERE HE LIVED BACK TEN, 11 YEARS AGO?
WITNESS: NO.

COURT: DID YOU KNOW PEOPLE WHO USED TO HANG AROUND THERE?
WITNESS: MY BOYFRIEND.

COURT: KEITH?

WITNESS: YEAH.

COURT: ANYBODY ELSE?

WITNESS: NO.

COURT: MS. MARSHALL, PLEASE GO AHEAD.

BY MS. MARSHALL:
REDIRECT EXAMINATION
Q. MS. CADE, YOU'VE BEEN HOMELESS OFF AND ON OVER IS THAT CORRECT?

A. YES.

Q. AND YOU STAY WITH DIFFERENT PEOPLE AT DIFFERENT
A. YES.

Q. IS IT REALLY CLEAR IN YOUR HEAD DURING WHAT TIME YOU WERE STAYING IN WHAT PARTICULAR PLACE OR ALL KIND OF GET CONFUSED FOR YOU?

A. SOMETIMES.

Q. WHEN I WAS ASKING YOU QUESTIONS EARLIER, YOU SAID CAME BACK TO MS. JOHNSON' S HOUSE AND SAW THE POLICE TAPE.

A. YES.

Q. IS THAT CORRECT THAT YOU DID?
A. YES.

Q. OKAY. SO WHEN YOU TOLD THE JUDGE THAT YOU DIDN'T RETURN TO THE SCENE, YOU MEANT YOU DIDN'T -- WHAT DID YOU MEAN?

A. I DIDN'T WALK OVER THERE TO IT.

Q. BUT YOU SAW THAT IT WAS-

A. TAPED OFF, YES.

Q. -- TAPED OFF?
AND YOU KNEW THERE HAD BEEN A MURDER THERE?
A. YES.

---

1 Q. AND WAS KEITH WITH YOU AT THAT TIME?
2 A. YES, HE WAS.
3 Q. NOW, ALL THESE YEARS LATER WHEN YOU FINALLY SAW
4 MR. BROADNEX'S SISTER ON THE STREET, WAS SHE WITH MIRIAM
5 BROADNEX?
6 A. YES, SHE WAS.
7 Q. SO IS THAT THE FIRST TIME YOU MET MIRIAM
8 BROADNEX?
9 A. YES.
10 Q. HAS MIRIAM BROADNEX EVER THREATENED YOU TO COME
11 IN HERE AND TESTIFY IN ANY PARTICULAR WAY?
12 A. NO.
13 Q. HAS SHE PAID YOU ANYTHING?
14 A. NO.
15 Q. HAS ANYBODY ELSE THREATENED YOU OR PAID YOU FOR
16 YOUR TESTIMONY?

17 A. NO.
18 Q. DO YOU REMEMBER TALKING TO MY INVESTIGATOR ONE
19 TIME, A MR.MACKEY?
20 A. YES.
21 Q. AND DID HE GIVE YOU A DECLARATION TO SIGN OR TAKE
22 A DECLARATION FROM YOU?
23 A. YES.
24 Q. OKAY. AND HIS HONOR JUST SHOWED YOU THAT IN THAT
25 DECLARATION YOU SAID THAT YOU KNEW THAT MR. BROADNEX HAD
26 CASTS ON BOTH HANDS AND ARMS AND NOW YOU SAY YOU DON'T REALLY
27 REMEMBER THAT?
28 A. NO.

1
Q. SO YOU DON'T REMEMBER WHETHER HE HAD CASTS ON HIS
2 HANDS AND ARMS?
3 A. I CAN'T REMEMBER. I CAN'T REMEMBER.
4 Q. BUT BACK IN MARCH IF YOU SAID THAT AT THE TIME,

5 YOU BELIEVED IT WAS TRUE?
6 A. YES.
7 Q. WHEN DEBRA JOHNSON TOLD YOU THAT SHE SAW

8 MR. BROADNEX DO THIS SHOOTING, DID YOU BELIEVE HER?
9 A. YEAH.
10 Q. OKAY. SO WHEN YOU TESTIFIED, YOU THOUGHT YOU

11 WERE HELPING PUT AWAY SOMEBODY THAT HAD DONE A MURDER?
12 A. YES.
13 Q. YOU DID NOT KNOW THAT MS. JOHNSON IN FACT DID NOT
14 SEE IT, DID YOU?
15 A. NO.
16 Q. WERE YOU AFRAID OF MS. JOHNSON?
17 A. NO. -
18 Q. WERE YOU AFRAID OF THE POLICE?
19 A. NO.
20 Q. NOT RIGHT NOW. AT THE TIME. AT THE TIME THAT

21 THE POLICE WERE HARASSING YOU --
22. A. NO.
23 Q. -- OR WERE TRYING TO, AS YOU SAY, PICK YOU UP ALL

24 THE TIME AND QUESTIONING YOU.
25 A. I GOT TIRED OF IT.
26 Q. SO WHY DID YOU TESTIFY FALSELY IF IT WASN'T --
27 A. BECAUSE I DIDN'T WANT TO GO TO JAIL.
28 Q. YOU WERE AFRAID YOU WOULD GO TO JAIL?

---

1 A. YES.
2 Q. AND WHAT DID YOU THINK YOU WOULD GO TO JAIL FOR?
3 A. EXCUSE ME?
4 Q. WHAT DID YOU THINK YOU WOULD GO TO JAIL FOR?
5 A. BECAUSE THAT' S WHAT THEY TOLD ME.
6 Q. YEAH. BUT FOR WHAT CRIME?
7 A. I DON'T KNOW. WHATEVER THEY WAS

GONNA PUT ME IN

8 THERE FOR.
9 Q. AND DO YOU REMEMBER? WAS THAT A DETECTIVE

10 ALFRED?
11 A. YES.
12 Q. DO YOU REMEMBER HIM?
13 A. (WITNESS NODS HEAD.)
14 Q. AND WOULD HE PICK YOU UP FREQUENTLY IN YOUR

15 NEIGHBORHOOD OFF THE STREET?
16 A. YES.
17 Q. AND WAS THAT SOMETHING THAT WAS UPSETTING TO YOU

18 TO BE PICKED UP BY THE POLICE IN FRONT OF EVERYBODY?
19 A. YES.
20 Q. ARE YOU TELLING US THE TRUTH TODAY THAT YOU DID

21 NOT SEE MR. BROADNEX DO THAT SHOOTING?
22 A. YES.

23 MR. MARSHALL: I HAVE NOTHING FURTHER.

24 THE COURT: WE'LL GIVE YOU OBVIOUSLY A CHANCE TO GO

25 BACK AND FORTH. I JUST WANTED TO ASK QUESTIONS.

26 THE WITNESS: OH, LORD JESUS, MAN.

27 THE COURT: I KNOW IT WAS A LONG TIME AGO. WERE YOU

28 SUBPOENAED TO COURT TO TESTIFY?

---

1 THE WITNESS: YES.

2 THE COURT: DID YOU ALWAYS SHOW UP OR WERE THERE

3 OCCASIONS YOU DIDN'T SHOW UP?

4 THE WITNESS: I ALWAYS SHOWED UP BECAUSE THEY MADE

5 SURE THAT I DID.

6 THE COURT: OKAY. SO THEY BROUGHT YOU TO COURT?

7 THE WITNESS: YES.

8 THE COURT: SO THERE WASN'T A TIME -- I MEAN I DON'T

9 REMEMBER. THERE WASN'T A TIME WHERE A WARRANT WAS ISSUED FOR

10 YOU NOT COMING COURT?

11 THE WITNESS: NO.

12 THE COURT: I UNDERSTAND THE TESTIMONY ABOUT - - I' M

13 NOT CONFUSED ABOUT THE TESTIMONY ABOUT

TESTIFYING BECAUSE THE

14 POLICE THREATENED TO ARREST YOU, BUT I'M A LITTLE CONFUSED AS

15 TO WHY YOU WOULD TESTIFY FALSELY JUST BECAUSE MS. JOHNSON

16 TOLD YOU TO.

17 THE WITNESS: NOT BECAUSE MS. JOHNSON TOLD ME.

18 BECAUSE OF WHAT THE DETECTIVES TOLD ME.

19 THE COURT: YOU JUST SAID THAT YOU THOUGHT YOU WERE

20 PUTTING SOMEONE AWAY WHO DID A MURDER. THAT' S BECAUSE DEBRA

21 JOHNSON SAID SHE SAW IT.

22 THE WITNESS: YES.

23 THE COURT: BUT YOU'RE NOT TELLING ME THAT JUST

24 BECAUSE MS. JOHNSON SAID THAT SOMEONE MURDERED SOMEBODY THAT

25 YOU WOULD COME IN AND TESTIFY FALSELY ABOUT IT.

26 THE WITNESS: NO. I 'M TELLING YOU THAT BECAUSE THAT' S

27 WHAT THE DETECTIVES TOLD ME.

28 THE COURT: OKAY. I UNDERSTAND. GO AHEAD,

MS. MADRID.

MS. MADRID: THANK YOU, YOUR HONOR.

RECROSS-EXAMINATION

BY MS. MADRID:

Q. YOU JUST SAID THAT YOU LIED AT TRIAL BECAUSE THE DETECTIVES TOLD YOU TO, CORRECT, MS. CADE?

A. YES.

MS. MADRID:

YOUR HONOR, MAY I APPROACH?
THE COURT: JUST SHOW COUNSEL WHAT YOU ARE APPROACHING WITH.

DECLARATION?

A. NO, I DON'T.

Q. IS THAT YOUR SIGNATURE?

A. YES, IT IS.

Q. AND DO YOU REMEMBER, WHEN YOU TALKED TO THE INVESTIGATOR FOR MS. MARSHALL, DID YOU TELL HIM THAT IN FACT DEBRA JOHNSON

TOLD YOU WHAT TO SAY?

A. YES, I DID.

Q. AND, IN FACT, AT THAT TIME DIDN' T YOU ALSO TELL HIM THAT YOU WERE LIVING WITH MS. JOHNSON?
WITH.

MS. MADRID: MAY I APPROACH, YOUR HONOR?

THE COURT: SURE.

MS. MADRID: NOW, I'M SHOWING YOU A DOCUMENT THAT'S TWO PAGES. IT'S ENTITLED "DECLARATION OF DAPHNE CADE.
THE COURT JUST SHOWED YOU A COPY OF THE SAME DECLARATION. NOW, DO YOU REMEMBER SIGNING THIS?

A. NO, I DON'T.
Q. IS THAT YOUR SIGNATURE?

A. YES,IT IS.

Q. AND DO YOU REMEMBER, WHEN YOU TALKED TO THE INVESTIGATOR FOR MS. MARSHALL, DID YOU TELL HIM THAT IN FACT DEBRA JOHNSON TOLD YOU WHAT TO SAY?
A. YES, I DID
Q. AND IN FACT, AT THAT TIME DIDN'T YOU ALSO TELL HIM THAT YOU WERE LIVING WITH MS. JOHNSON/

A. YES I DID.
Q. BUT YOU'VE JUST TESTIFIED IN COURT TODAY THAT IN

FACT YOU WERE NOT LIVING WITH MS. JOHNSON. YOU WERE GOING BACK AND FORTH; ISN' T THAT TRUE?

A. I SAID I WAS LIVING THERE. THEN AFTER -- AFTER THE MURDER HAPPENED, I DID NOT GO BACK THERE TO LIVE. THAT' S WHAT I SAID.

Q. OKAY. DIDN'T YOU JUST TESTIFY THAT IN FACT YOU SAID YOU HAD BEEN LIVING THERE AT THE TIME OF THE SHOOTING?

A. YES. I SAID THAT AND THEN I ALSO SAID THAT I DID NOT GO BACK THERE AFTER THE SHOOTING.

Q. DID YOU EVER - -

A. I DID NOT GO BACK THERE THAT NIGHT.

Q. DID YOU GO BACK TO DEBRA JOHNSON' S HOUSE THE NEXT DAY?

A. YES, I DID. I SAID I WENT BACK THERE A COUPLE OF TIMES.

Q. AND WERE YOU ACTUALLY LIVING WITH MS. JOHNSON THOSE COUPLE OF TIMES THAT YOU WENT BACK TO SEE HER?

A. NO.

Q. DO YOU WANT TO BE HERE TODAY, MS. CADE?

A. EXCUSE ME?

Q. DO YOU WANT TO BE HERE TODAY?

A. I HAVE NO PROBLEM WITH IT.

Q. AND ISN'T IT TRUE THAT YOU WERE TOLD BY THE POLICE THAT IF YOU DID NOT SHOW UP

TO TESTIFY AT TRIAL, YOU
27 WOULD BE POTENTIALLY PUT IN JAIL FOR THAT?
28 A. YES.

70

Q. AND HOWEVER, THEY NEVER TOLD YOU WHAT TO SAY AT TRIAL. THEY JUST WANTED YOU TO SHOW UP FOR TRIAL; ISN'T THAT TRUE?

A. NO. THEY TOLD ME WHAT TO SAY.

Q. AND YOU SAID YOU WEREN'T AFRAID OF THEM, CORRECT?

A. NO.

SO WHY DID YOU DO WHAT THEY TOLD YOU?
BECAUSE I DID NOT WANT TO GO TO JAIL. BUT IF YOU DID NOT WANT TO GO TO JAIL --
WELL, YOU THIS: YOU WERE NOT AFRAID OF THE POLICE, CORRECT?

A. NO.
Q. YOU WERE NOT AFRAID OF MS. JOHNSON, CORRECT?
A. NO.

Q. AND WERE YOU AFRAID OF MR. BROADNEX?

A. NO.

Q. EVEN THOUGH YOU WERE LYING AGAINST HIM AT TRIAL, YOU WERE NOT AFRAID OF MR. BROADNEX?

A. NO.

Q. YOU DIDN' T THINK IT WAS DANGEROUS FOR YOU AND FOR WORD TO GET AROUND ON THE STREET --

A. OF COURSE.

-Q.THAT YOU LIED AT TRIAL AND ACCUSED HIM OF A MURDER YOU DID NOT SEE?

A. OF COURSE.

Q. SO THAT MUST HAVE MADE YOU A LITTLE BIT AFRAID SINCE AT THAT TIME YOU DIDN' T HAVE A PERMANENT HOUSE, CORRECT?

A. NO.
Q. NO, YOU DID NOT HAVE A PERMANENT HOUSE AT THAT TIME, CORRECT?

A. NO, I DID NOT HAVE A PERMANENT HOUSE AND NO, IT DID NOT MAKE ME SCARED.

Q. IT DID NOT MAKE YOU SCARED TO BE ON THE STREET WITHOUT A PERMANENT HOUSE HAVING LIED AGAINST MR. BROADNEX AT TRIAL?

A. NO. IF I COULD SAY THIS. WHEN YOU'RE HOMELESS,

YOU GOT TO EXPECT THE WORST. BUT JUST GOING TO TRIAL OR JUST

STANDING ON THE STREETS DAILY, YOU GOT TO KNOW WHAT YOU'RE UP AGAINST.

Q. OKAY. BUT AREN'T YOU MAKING IT HARDER FOR YOURSELF IF YOU'RE LYING AGAINST SOMEBODY?

A. I'M MAKING IT HARD FOR MYSELF, PERIOD, OUT THERE ON THE STREETS.

Q. OKAY. NOW, MS. CADE, MR. BROADNEX HAS FRIENDS AND ASSOCIATES IN THE NEIGHBORHOOD, CORRECT?

A. YES, HE DOES.

Q. AND HE HAD FRIENDS AND ASSOCIATES IN THE NEIGHBORHOOD AT THE TIME OF THE SHOOTING; ISN'T THAT TRUE?

A. YES.

Q. AND YET YOU BASICALLY LIED AGAINST HIM AT TRIAL,
CORRECT?
A. TRUE.

Q. AND THAT GOT AROUND ON THE STREET, DIDN'T IT?

A. IT SURE DID.

Q. AND THAT DID NOT MAKE YOU AFRAID?

A. NO.
Q. NOW, YOU TESTIFIED I BELIEVE THAT KEITH WAS YOUR
BOYFRIEND AT THE TIME OF THE SHOOTING, CORRECT?

A. YES.
Q. AND I BELIEVE YOU ALSO TESTIFIED WHEN THE COURT WAS ASKING YOU QUESTIONS THAT MR. MORISETTE, KEITH MORISETTE KNEW SOME OF MR. BROADNEX'S PEOPLE; ISN'T THAT TRUE?
A. HE KNOW MR. BROADNEX.
Q. BUT DID HE ALSO KNOW MR. BROADNEX' S FAMILY?
A. HE SURE DID.
Q. AND YOU SAID THAT YOU TOLD MR. MORISETTE THAT YOU LIED AT TRIAL, CORRECT?
A. MR. MORISETTE. YES, UN-HUH.
Q. AND DID YOU EVER ASK MR. MORISETTE TO TRY AND CONTACT SOME OF THE --
A. HE DID. HE DID TRY AND CONTACT MR. BROADNEX' S FAMILY BUT HE COULDN' T.
Q. WELL, WHAT DID HE DO, IF YOU KNOW?
A. I DON'T KNOW.
Q. HOW DO YOU KNOW THEN THAT HE IN FACT - -
A. BECAUSE HE TOLD ME.
Q. DID YOU ASK HIM TO TRY AGAIN BECAUSE THIS WAS SUCH A SERIOUS MATTER AND YOU HAD LIED IN COURT?
A. EXCUSE ME. THAT'S MY BOYFRIEND. THAT WAS MY BOYFRIEND AT THE TIME SO HE CARED - - YOU KNOW, THERE HAD TO BE SOME KIND OF CARING THERE, SO HE WAS TRYING.
Q. HOW LONG DID HE TRY?

28 A. I DON'T KNOW.

---

1 Q. DID YOU KEEP ASKING HIM TO TRY?
2 A. YES, I DID.
3 Q. DID YOU EVER SAY TO HIM I' LL COME WITH YOU AND WE
4 CAN GO OVER TO ONE OF MR. BROADNEX' S RELATIVE' S HOUSES AND

5 TELL THE TRUTH? DID YOU EVER DO THAT, YES OR NO?
6 A. YES. AND HE DID NOT KNOW WHERE THEY STAY. SO
7 WHAT?
8 Q. DIDN'T YOU JUST TESTIFY THAT HE IN FACT KNEW
9 MR. BROADNEX' S FAMILY?
10 A. I SAID YES. AND I KNOW HIS FAMILY TOO BUT WHAT
11 DOES THAT HAVE TO DO WITH ANYTHING BECAUSE WE DIDN' T KNOW

12 WHERE HE STAYED? WHAT DO YOU WANT US TO DO? JUST GO OUT
13 THERE AND CIRCLE AROUND AND TRY TO FIND SOMEBODY WITHOUT NO
14 CAR AND NO WAY TO GET AROUND. WHAT DO YOU WANT ME TO DO?
15 Q. WELL, YOU KNEW PEOPLE IN THE NEIGHBORHOOD.
16 A. THAT DON' T MEAN NOTHING.
17 Q. I AM ASKING YOU, MS. CADE.
18 A. HURRY UP AND GET ME OFF THIS STAND.
19 MR. MARSHALL: ASKED AND ANSWERED.
20 THE COURT: I ' M SORRY, MA' AM. YOU ARE MAKING
21 COMMENTS.

22 THE WITNESS: CAUSE I AM PREGNANT AND I AM GETTING -
23 VERY STRESSED OUT. MY STOMACH HAS BUTTERFLIES IN IT AND
24 EVERYTHING ELSE.
25 THE COURT: YOU' RE HERE TO ANSWER QUESTIONS.
26 THE WITNESS: OKAY. COME ON.
27 THE COURT: YOU ARE NOT HERE TO MAKE EDITORIAL
28 COMMENTS.
THE WITNESS: I'M ASKING YOU A QUESTION

THE COURT: SO IF IT TAKES THREE HOURS, YOU ARE GOING TO BE HERE ANSWERING QUESTIONS. SO LISTEN TO THE QUESTION.

THE WITNESS: I AM LISTENING TO THE QUESTION.

THE COURT: LISTEN TO THE QUESTION AND ANSWER IT. IT WILL GO A LOT QUICKER.

THE WITNESS: YEAH. OKAY.

THE COURT: GO AHEAD.

Q. BY MS. MADRID: NOW, MS. CADE, YOU TESTIFIED EARLIER THAT YOU IN FACT KNEW THAT MR. MORISETTE KNEW SOME OF MR. BROADNEX'S FAMILY, CORRECT?

A. YEAH.

Q. AND AFTER YOU DID - - WOULDN' T YOU AGREE THAT IN FACT LYING AT TRIAL ABOUT WHO KILLED SOMEBODY IS A SERIOUS THING?

A. YES

Q. AND DID YOU FEEL BAD ABOUT LYING?

A. YES, I DID.
Q. AND SO HOW MANY TIMES DID YOU GET KEITH TO TRY AND CONTACT MR. BROADNEX'S FAMILY?

A. SEVERAL TIMES.

Q. MORE THAN THREE?

A. SEVERAL TIMES.

Q.AND THAT WAS SEVERAL TIMES OVER 12 YEARS?

A. WE WASN'T TOGETHER ALL THIS TIME, YES.
AND OVER THAT 12-YEAR PERIOD YOUR BOYFRIEND, NOT IN FACT BEEN SUCCESSFUL? HE WAS NOT IN CONTACTING THE FAMILY?
A. NO. HE WASN' T BECAUSE HE WENT TO JAIL A LITTLE

Q. HOW LONG WAS HE IN JAIL?

A.I DON'T KNOW.

Q. YOU SAID THAT YOU SAW TRACY ON THE STREET AND YOU CAME FORWARD; ISN' T THAT TRUE?

A. I SAID I SAW . TRACY ON THE STREET AND I TOLD HER.
Q. THAT YOU HAD LIED AT TRIAL?

A. YES.

Q. WHAT' S TRACY' S LAST NAME, DO YOU KNOW?
A. BROADNEX, AS FAR AS I KNOW.
Q. AND WHERE ON THE STREET DID YOU SEE TRACY BROADNEX THAT DAY - -

A. WHAT?
Q. . - - ON THE DAY THAT YOU SAW TRACY BROADNEX ON THE STREET?

A. ON VERMONT AVENUE.

Q. HOW FAR AWAY WAS THAT FROM WHERE YOU WERE LIVING AT THAT TIME?

A. A GOOD WAYS.

Q. HOW LONG OF A WAYS, IF YOU CAN SORT OF GIVE US AN ESTIMATE?

A. I CAN'T.

Q. OKAY. WOULD IT BE A COUPLE OF MILES, DO YOU THINK?

A. NO.

Q. A MILE?

A. IT WASN'T ON 84TH PLACE.

Q. IT WAS NOT ON 84TH PLACE?
A. NO, IT WASN'T.
Q. WAS IT NEAR 84TH PLACE?
A. NO, IT WASN'T.
Q. AND AT THE TIME OF THE

SHOOTING, DID YOU KNOW
6 TRACY BROADNEX?
7 A. YES, I DID.
8 Q. AND WHERE WAS SHE LIVING
GENERALLY WITHOUT GIVING

9 ME A STREET ADDRESS NECESSARILY? DO YOU
KNOW WHERE SHE WAS

10 LIVING AT THE TIME OF THE SHOOTING?
11 A. NO, I DON'T.
12 Q. AND PRIOR TO THE SHOOTING, DID
YOU EVER SEE TRACY

13 BROADNEX IN THE NEIGHBORHOOD?
14 A. EXCUSE ME?
15 Q. BEFORE THE SHOOTING, DID YOU
EVER SEE TRACY

16 BROADNEX IN THE NEIGHBORHOOD?
17 A. YES, I DID.
18 Q. AND AFTER THE SHOOTING DID YOU
SEE TRACY BROADNEX

19 IN THE NEIGHBORHOOD?
20 A. NO.
21 Q. SO AFTER THE SHOOTING, YOU
NEVER SAW HER AGAIN

22 AROUND 84TH PLACE?
23 A. IF I DID -- NO.
24 Q. IS THAT A NO, YOU NEVER DID?
25 A. NO.
26 Q. AND WHEN EXACTLY DID YOU RUN
INTO TRACY BROADNEX

27 AND TELL HER THAT YOU WERE UNTRUTHFUL
AT TRIAL?

A. ABOUT FOUR OR FIVE MONTHS AGO
28

Q. AND SO IS IT YOUR TESTIMONY THAT FROM THE TIME OF THE SHOOTING UNTIL FOUR OR FIVE MONTHS AGO YOU NEVER SAW TRACY BROADNEX ANYWHERE AT ANY TIME?

A. NO.

Q. AND DIDN'T YOU ALSO JUST TESTIFY THAT WHEN YOU SAW TRACY BROADNEX, SHE WAS WITH MIRIAM BROADNEX?

A. YES, I DID.

Q. SO THEY WERE TOGETHER WHEN YOU SAW THEM ON THAT DAY, CORRECT?
A. YES.

Q. AND YOU JUST TESTIFIED THAT THAT WAS THREE OR FOUR MONTHS AGO?
A. YES.

Q. AND WAS THAT THE FIRST TIME THAT YOU HAD SEEN MIRIAM BROADNEX - -

A. YES.

Q. -- SINCE THE TIME OF THE SHOOTING?
A. YES.

Q. PRIOR TO THE SHOOTING, HAD YOU SEEN MS. MIRIAM BROADNEX IN THE NEIGHBORHOOD?

A. NO.

Q. NEVE

A. NEVER.

Q. DID YOU KNOW WHAT SHE LOOKED LIKE?
A. NO.

Q. AFTER THE TRIAL, HAD YOU SEEN MS. MIRIAM BROADNEX?

---

28 A. NO.
Q. WAS MS. MIRIAM BROADNEX AT THE TRIAL?

A. I DON'T KNOW.

Q. NOW, MS. CADE, YOUR DECLARATION WAS SIGNED ON MARCH 29TH,2003, AND YOUR DECLARATION SAYS THAT YOU WERE HOMELESS AT THAT TIME.

A. YES.

Q. ARE YOU STILL HOMELESS?

A. NO.

Q. YOU SAID THAT YOU' RE PREGNANT, MS. CADE?

A. YES, I AM.

Q. HAS MS. BROADNEX HELPED YOU OUT AT ALL BY GIVING YOU ANYTHING FOR YOUR BABY OR FOR MEDICAL CARE OR ANYTHING LIKE THAT?

A. NO.

MS. MADRID: MAY I HAVE A MOMENT, YOUR HONOR?

THE COURT: SURE.

(BRIEF PAUSE IN PROCEEDINGS.)

Q. BY MS. MADRID: DID YOU KNOW A MAN BY THE NAME OF CLIFFORD HUNTER?

A. NO.

Q. DID YOU KNOW WHO MARRY MILLS IS?
A. WHO?
Q. MARRY MILLS.
A. NO.

Q. DO YOU KNOW MR. BROADNEX' S MOTHER?

A. YES

Q DID YOU KNOW WHO MARRY MILLS IS?

A WHO?

Q MARRY MILLS.
Q. AND SHE IS IN THE COURTROOM PRESENTLY; ISN'T THAT TRUE?
A. YES.
Q. HAD YOU EVER SEEN MS. MARRY MILLS PRIOR TO TODAY?
A. YES.

Q. HAD YOU SEEN MS. MARRY MILLS BETWEEN THE TIME OF THE SHOOTING AND TODAY?

A. SAY IT AGAIN.

Q. AFTER THE SHOOTING, DID YOU SEE MS. MARRY MILLS AROUND THE NEIGHBORHOOD?

A. NO.

Q. AND YOU NEVER SAW MS. MARRY MILLS FROM THE TIME
SHOOTING TO THE TIME THAT YOU SAY YOU SAW HER

-- STRIKE THAT.

WHEN DID YOU FIRST SEE MARRY MILLS?

A. WHO IS MARRY MILLS?

Q. MR. BROADNEX' S MOTHER.

A. OH, ABOUT -- OH, IT'S BEEN A WHILE.

Q. HOW LONG IS A WHILE?

A. IT'S BEEN SIX MONTHS.

Q. SIX MONTHS?

A.UH-HUH.

Q.AND DID YOU TELL MS. MILLS THAT YOU HAD LIED AT TRIAL WHEN YOU SAW HER SIX MONTHS AGO?

A. YES.

Q. AND HAD YOU SEEN MS. MILLS BEFORE SIX MONTHS AGO?

A. NO.

Q. DID YOU SEE MS. MILLS AROUND THE NEIGHBORHOOD OR

ANYWHERE PRIOR TO THE SHOOTING?
A. NO.
Q. DID YOU SEE MS. MILLS BETWEEN THE TIME OF THE
SHOOTING AND THE TIME OF THE TRIAL?
A. NO.
Q. DID YOU SEE MS. MILLS AFTER THE TRIAL?
A. NO.
Q. ARE YOU AFRAID THAT IF YOU DIDN' T COME TO COURT TODAY TO SAY THAT YOU LIED AT TRIAL THAT SOMETHING MIGHT HAPPEN TO YOU?

A. NO.

Q. ARE YOU CURRENTLY HOMELESS, MS. CADE?

A. NO

Q. IS MR. MORISETTE TO YOUR KNOWLEDGE HOMELESS?

Q. AND YOU TESTIFIED EARLIER -- WHERE ARE YOU LIVING CURRENTLY, MS. CADE?

A. I STAY WITH A GIRL. I CALL HER MY SISTER.

Q. AND IS SHE RELATED IN ANY WAY TO MR. BROADNEX OR HIS FAMILY?

A. NO, SHE IS NOT.

MS. MADRID: I HAVE NOTHING FURTHER AT THIS TIME.

THE COURT: REDIRECT, MS. MARSHALL? ANYTHING ELSE?

FURTHER REDIRECT EXAMINATION

BY MS. MARSHALL:

Q. YES. WHEN DID YOU FIND OUT THAT DEBRA JOHNSON REALLY DIDN'T SEE THE MURDER?

A. AFTER THE TRIAL.

MS. MADRID: YOUR HONOR, I AM GOING TO OBJECT. CALLS FOR SPECULATION. LEADING.

THE COURT: THAT OBJECTION IS OVERRULED.

MS. MADRID: CALLS FOR HEARSAY.

THE COURT: YOU CAN ASK THE QUESTION.

Q. BY MR. MARSHALL: WHEN DID YOU FIND OUT THAT DEBRA JOHNSON REALLY DIDN'T SEE THE MURDER?

A. AFTER. DURING THE TRIAL AFTER SHE TESTIFIED.

MR. MARSHALL: I HAVE NOTHING FURTHER.

THE COURT: RECROSS.

17
18 FURTHER RECROSS-
EXAMINATION
19
20 BY MS. MADRID:
21 Q. YOU TESTIFIED AT THE
PRELIMINARY HEARING,
22 CORRECT, MS. CADE?
23 A. YEAH.
24 Q. AND THEN YOU TESTIFIED AT
TWO TRIALS; ISN' T THAT
25 CORRECT?
26 A. YES.
27 MS. MADRID: I HAVE NOTHING
FURTHER.
THE COURT: ANYTHING ELSE?

FURTHER REDIRECT EXAMINATION

BY MS. MARSHALL:

Q. YES. WHEN DID YOU FIND OUT THAT DEBRA JOHNSON REALLY DIDN'T SEE THE MURDER?
A. AFTER THE TRIAL.
MS. MADRID:
YOUR HONOR, I AM GOING TO OBJECT. CALLS FOR SPECULATION. LEADING.
THE COURT: THAT OBJECTION IS OVERRULED.
MS. MADRID: CALLS FOR HEARSAY.
THE COURT: YOU CAN ASK THE QUESTION.
Q. BY MS. MARSHALL: WHEN DID YOU FIND OUT THAT DEBRA JOHNSON REALLY DIDN'T SEE THE MURDER?
A. AFTER. DURING THE TRIAL AFTER SHE TESTIFIED.
MS. MARSHALL: I HAVE NOTHING FURTHER.
THE COURT; RECROSS.

FURTHER RECROSS EXAMINATION

BY MS. MADRID: YOU TESTIFIED AT THE PRELIMINARY HEARING, CORRECT, MS. CADE?
A. YEAH.
Q. AND THEN YOU TESTIFIED AT TWO TRIALS; ISN'T THAT CORRECT?
A. YES.
MS. MADRID: I HAVE NOTHING FURTHER.
THE COURT; ANYTHING ELSE?

FURTHER REDIRECT EXAMINATION

DO YOU REMEMBER BEING IN THE HALLWAY DURING THAT FIRST TRIAL AND HAVING DEBRA JOHNSON COME UP TO YOU AND SAY SOMETHING TO THE EFFECT OF MAKE SURE YOU STICK TO THAT STORY?
A. YES.

MR. MARSHALL: NOTHING FURTHER.

THE COURT: ANYTHING ELSE?

MS. MADRID: NO, YOUR HONOR.

THE COURT: DO YOU WANT HER PLACED ON CALL OR DO YOU WANT HER EXCUSED?

MR. MARSHALL: I WOULD LIKE TO HAVE HER PLACED ON CALL.

THE COURT: FOR MAYBE NEXT FRIDAY?

MR. MARSHALL: FOR NEXT FRIDAY.

THE COURT: OKAY. SO LET'S DO THIS.

YOU'RE EXCUSED FOR NOW. THANK YOU. YOU MAY HAVE TO COME BACK NEXT FRIDAY.

THE WITNESS: OKAY.

THE COURT: IF YOU DO, THE DEFENSE LAWYER WILL CALL
WITNESS: OKAY.

COURT: DON' T TALK ABOUT WHAT YOU SAID TO ANYBODY.

WITNESS: I'M NOT.

COURT: OKAY. OTHER WITNESSES YOU' RE GOING TO CALL

THAT ARE HERE OR NOT?

MARSHALL: I WOULD CALL MIRIAM BROADNEX JUST BRIEFLY TO CLARIFY THE MEETING

43

THE COURT: WHATEVER YOU WANT.

(BRIEF PAUSE IN PROCEEDINGS.)

THE COURT: OKAY. MA'AM, IF YOU WOULD PLEASE COME FORWARD.

MS. MADRID: *ALSO*, YOTJR HONOR, NOW THAT COUNSEL IS IN THE COURTROOM I WOULD JUST POINT OUT THAT MS. CADE HAS TAKEN A SEAT IN THE BACK.

THE WI TNESS: CAN I GO OUT?

THE COURT: YEAH. THAT WOULD BE GREAT.

THE WITNESS: THANK YOU.

THE COURT: OKAY. MA' AM, IF YOU WOULD COME FORWARD.

AND JUST ABOUT THERE FACE THE CLERK, RAISE YOUR RIGHT HAND TO BE SWORN.

MIRIAM BROADNEX,

CALLED AS A WITNESS BY THE DEFENDANT, WAS SWORN AND TESTIFIED AS FOLLOWS:

THE CLERK: YOU DO SOLEMNLY STATE THAT THE TESTIMONY YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO HELP YOU GOD.

THE WITNESS: YES.

THE CLERK: JUST HAVE A SEAT.

MA'AM, WOULD YOU PLEASE STATE AND SPELL YOUR FULL NAME FOR THE RECORD SLOWLY

L-14

THE WITNESS: MIRIAM BROADNEX, M-I-R-I-A-M, B-R-O-A-D-N-E-X.

THE COURT: THANK YOU, MA' AM.

PLEASE PROCEED.

DIRECT EXAMINATION

BY MS. MARSHALL:

Q. MRS. BROADNEX, ARE YOU MARRIED TO MY CLIENT?

A. YES, I AM.

Q. AND HOW LONG HAVE YOU BEEN MARRIED TO HIM?

A. SIX YEARS, GOING ON SEVEN.

Q. WERE YOU WITH HIM AT THE TIME OF THE CRIME THAT HE HAS BEEN CONVICTED OF?

A. NO.

Q. OKAY. AT SOME POINT BACK IN 1993 -- IN 2003 DID YOU HAVE OCCASION TO MEET DAPHNE CADE?

A. YES, I DID.

Q. AND COULD YOU DESCRIBE FOR US HOW YOU HAPPENED TO MEET HER?

A. WELL, I MET HER -- ACTUALLY HIS SISTER AND I WORK TOGETHER AND SHE CAME TO THE SISTER. WE WERE LIKE IN THE NEIGHBORHOOD SOMEWHERE. AND SHE CAME TO THE SISTER AND SHE RECOGNIZED THE SISTER, BECAUSE SHE DIDN'T KNOW ME. AND SHE ASKED, YOU KNOW, ABOUT FELLA. SHE CALLS HIM FELLA. AND SHE WAS SAYING THAT, YOU KNOW, SHE HAD BEEN LOOKING FOR SOMEBODY IN THE FAMILY BECAUSE SHE FELT REALLY BADLY ABOUT WHAT SHE HAD DONE, YOU KNOW. THAT IT WASN' T TRUE. THAT HER TESTIMONY

45

WASN'T TRUE. AND THAT THEY HAD MADE HER DO IT AND, YOU KNOW, SO THAT' S HOW I MET HER.

Q. HAVE YOU PAID MS. CADE TO COME FORWARD?

A. NO, I HAVE NOT.

Q. HAVE YOU THREATENED HER?

A. NO, I HAVE NOT.

Q. TO YOUR KNOWLEDGE HAS ANYBODY PAID OR THREATENED HER?

A. NO.

MR. MARSHALL: I HAVE NOTHING FURTHER.

THE COURT: CROSS-EXAMINATION.

CROSS-EXAMINATION

BY MS. MADRID:

Q. AT THE TIME OF THE SHOOTING, MS. BROADNEX, DID YOU ALREADY KNOW MR. BROADNEX?

A. NO, I DID NOT.

Q. AND AT THE TIME OF THE SHOOTING DID YOU LIVE IN THE GENERAL AREA OF 84TH PLACE?

A. NO, I DID NOT.

Q. AND YOU SAID YOU HAD BEEN MARRIED GOING ON SEVEN YEARS; IS THAT CORRECT?

A. YES THAT' S CORRECT.

Q. SO YOU MARRIED MR. BROADNEX AFTER HE WAS ALREADY

INCARCERATED?
A. YES, I DID.
Q. AND DO YOU KNOW THE GENERAL AREA WITHOUT GIVING
US A STREET ADDRESS WHERE MS. BROADNEX, TRACY BROADNEX,
LIVES?
A. TRACY BROADNEX?
Q. WELL, TRACY IS MR. BROADNEX' S SISTER, CORRECT?
A. I THINK HER NAME IS THERESA.
Q. THERESA. WHAT IS THERESA' S LAST NAME?
A. THERESA' S LAST NAME IS BROADNEX.
Q. AND GENERALLY SPEAKING, HOW CLOSE DOES
MS. THERESA BROADNEX LIVE TO THE AREA OF 84TH PLACE?
A. MAYBE FIVE OR SIX MILES.
Q. AND HOW LONG HAVE THEY LIVED FIVE OR SIX MILES
FROM 84TH PLACE?
A. OH, I DON'T KNOW.
Q. ARE YOU AWARE OF WHERE MR. BROADNEX' S MOTHER,
MS. MILLS, LIVES?
A. YES.
Q. AND HOW FAR AWAY DOES MS. MILLS LIVE FROM 84TH
PLACE?
A. MAYBE ABOUT FIVE OR SIX MILES.
Q. ARE YOU AWARE THAT - - OR DO YOU KNOW THAT
MR. BROADNEX HAD FRIENDS AND

ASSOCIATES IN THE AREA OF 84TH
22 PLACE?
23 A. NO. I DON' T THINK HE
HAD FRIENDS. MAYBE
24 ASSOCIATES BECAUSE I DON' T
THINK HE FREQUENTED THAT AREA TOO
25 OFTEN.
26 Q. BUT THERE WERE PEOPLE IN
THAT AREA?
S
27 A. THAT HE KNEW, YES.
28 Q. DO YOU REMEMBER WHAT DAY
IT WAS THAT MS. CADE
47

1 APPROACHED YOU AND THERESA?
2 A. NOT EXACTLY. I MEAN, I
THINK IT HAD TO BE

3 AROUND - - I 'M THINKING. WHAT WERE WE
DOING? I THINK IT WAS
4 AROUND THE WEEKEND. THE
WEEKEND.
5 Q. AND HOW LONG AGO?
6 A. I'M THINKING. MAYBE ABOUT
TWO -- TWO OR THREE
7 YEARS AGO.
8 Q. AND WHAT DID YOU DO WHEN
YOU FOUND OUT THEIR

9 INFORMATION WHICH IS, WOULD YOU AGREE,
PRETTY SERIOUS?
10 A. YES, I WOULD. YES, I
WOULD.
11 Q. AND WHAT DID YOU DO WHEN
YOU FOUND THIS

12 INFORMATION OUT TWO OR THREE YEARS AGO THAT MS. CADE SAID TO
13 YOU THAT SHE LIED AT YOUR HUSBAND'S TRIAL?
14 A. THEN I GOT AN ATTORNEY AND THAT'S WHEN I HIRED

15 MS. MARSHALL SO THAT WE COULD GO BACK TO COURT TO RECTIFY THE
16 SITUATION.
17 Q. AND DID YOU HIRE HER IMMEDIATELY?
18 A. NOT RIGHT AWAY. I THINK IT WAS ABOUT MAYBE A

19 YEAR. ALMOST MAYBE SIX MONTHS TO A YEAR I THINK.
20 Q. AND CAN YOU TELL THE COURT WHY YOU WAITED THAT
21 LONG TO HIRE AN ATTORNEY?
22 A. WELL, I HAD TO GET THE MONEY TO HIRE THE
23 ATTORNEY.
24 Q. AND DID YOU TALK TO ANYBODY ELSE IN THE

25 NEIGHBORHOOD ONCE MS. CADE GAVE YOU THIS INFORMATION TWO OR
26 THREE YEARS AGO?
27 A. NO. BECAUSE I DON' T REALLY KNOW ANYONE IN THE
28 NEIGHBORHOOD.
48

1 Q. DID YOU EVER ATTEMPT TO CONTACT DEBRA JOHNSON?
2 A. NO.

Q. HAD YOU EVER HEARD OF MS. CADE BEFORE? DID YOU KNOW OF HER BEFORE SHE ACTUALLY APPROACHED YOU AND THERESA THAT DAY?

A. YES. I KNEW ABOUT HER.

Q. AND DID YOU EVER TRY TO LOCATE HER TO TALK TO HER ABOUT HER TESTIMONY?

A. NO.

Q. DID YOU THEN ASSUME THAT SHE WAS TELLING THE TRUTH AT THE TIME OF THE TRIAL?

A. DID I ASSUME THAT SHE TOLD THE TRUTH DURING THE TRIAL?

Q. YES.

A. NO.

Q. SO IT WAS YOUR BELIEF THAT SHE LIED AT THE TIME OF TRIAL?

A. YES.

Q. DID YOU ACTUALLY SEE HER TESTIFY?

A. NO. I WAS NOT THERE.

Q. WHEN DID YOU FIRST FIND OUT THAT MS. CADE TESTIFIED AT THE TRIAL?

A. WELL, THROUGH MY HUSBAND.

Q. AND DID YOU EVER SEND ANYBODY OUT INTO THE NEIGHBORHOOD OR DID YOU EVER TRY AND LOCATE MS. CADE THAT YOU KNEW TO BE A LIAR AT THAT POINT?

A. NO.

MS. MADRID: I HAVE NOTHING FURTHER.
THE COURT: THE DAY THAT YOU MET MS. CADE DO YOU REMEMBER WHERE IT WAS PHYSICALLY?

THE WITNESS: I THINK IT WAS SOMEWHERE AROUND VERMONT OR SOMEWHERE IN THAT AREA.

THE COURT: MORNING? AFTERNOON? EVENING? DO YOU REMEMBER?

THE WITNESS: IT WASN'T MORNING. MAYBE LIKE MIDAFTERNOON, SOMETHING LIKE THAT.

THE COURT: AND YOU WERE WITH WHOM?

THE WITNESS: WITH THERESA BROADNEX.

THE COURT: WHAT WAS THE DISCUSSION? TELL ME WHAT EVERYBODY SAID.

THE WITNESS: OKAY. THERESA WAS LOOKING FOR ANOTHER FRIEND IN THE AREA, AND DAPHNE CAME AND SHE RECOGNIZED THERESA. AND SHE SAID THAT SHE HAD BEEN LOOKING FOR SOMEONE BECAUSE SHE SAID THAT SHE FELT BAD

ABOUT WHAT SHE H.AD DONE.

17 AND SHE HAD BEEN LOOKING FOR SOMEONE IN THE FAMILY TO TELL

18 THEM WHAT SHE HAD DONE AND SHE WANTED TO MAKE IT RIGHT OR

19 WHATEVER BECAUSE SHE FELT REALLY BADLY THAT SHE HAD LIED AND
20 SHE KNEW SHE HAD LIED.

21 THE COURT: AND AT THAT TIME DID YOU SAY SOMETHING

22 LIKE WHERE ARE YOU STAYING OR WHERE ARE YOU LIVING, HOW CAN
23 WE GET A HOLD OF YOU, THAT KIND OF THING OR WHAT?

24 THE WITNESS: WELL, I ASKED HER -- I THINK I ASKED HER

25 IF SHE WOULD BE WILLING TO GO TO COURT AND DO THIS. AND YES,

26 BECAUSE SHE SAID SHE IS JUST LIKE ON 84TH PLACE, USUALLY ON
27 THE CORNER.

28 THE COURT: OKAY. ANY OTHER QUESTIONS?
EC

1 MR. MARSHALL: NOTHING FURTHER, NO.

2 THE COURT: ANYTHING ELSE?

MS. MADRID: NO.

THE COURT: OKAY. MS. BROADNEX, THANK YOU. YOU MAY STEP DOWN.

THE WITNESS: THANK YOU.

THE COURT: AND SHE CAN PROBABLY STAY. I DON' T ANTICIPATE - -

MR. MARSHALL: I HAVE NO FURTHER WITNESSES, YOUR HONOR. AND I WOULD ASK, THOUGH, IF THE COURT CAN INDULGE US AND GIVE US ANOTHER DAY TO BRING IN MR. MORISETTE IN UNLESS THE COURT IS PREPARED TO GRANT THE WRIT WITHOUT HIS TESTIMONY. I THINK IT IS IMPORTANT.

THE COURT: WELL, YOU HAVE TWO DECLARATIONS, ONE OF WHOM ONE PERSON IS NOT HERE TODAY. YOUR REPRESENTATIONS WOULD BE A REASON TO HAVE FURTHER TESTIMONY ON YOUR SIDE.

I DON' T KNOW WHETHER - - AT THIS TIME YOU BELIEVE THAT THAT WILL

18 BE YOUR LAST WITNESS?

19 MR. MARSHALL: THAT' S ALL I HAVE, YES.

20 THE COURT: DO WE KNOW WHETHER THE PEOPLE ARE GOING TO-
21 HAVE ANY WITNESSES OR NOT?

22 MS. MADRID: NO, YOUR HONOR.

23 THE COURT: YOU DON'T KNOW OR YOU'RE NOT GOING TO HAVE
24 ANY?

25 MS. MADRID: I'M NOT GOING TO HAVE ANY. I'M SORRY.

26 THE COURT: THAT WAS A BAD QUESTION. SO LET'S JUST DO

27 WHAT WE'VE GOT TO DO. WE'LL PUT IT OVER, IF IT'S ALL RIGHT,

28 TO A DATE THAT' S CONVENIENT. I 'M GOING TO BE GONE PRETTY
r
1 MUCH THE MONTH OF AUGUST SO WE DO NEED TO DO IT YOU MENTIONED
2 NEXT WEEK. SO THAT'S FINE. WE SHOULD FINISH THIS TRIAL UP
3 TODAY OR MONDAY. IF WE GET ANOTHER ONE, WE' LL JUST BE DARK
4 IN THE MORNING, WHATEVER MORNING YOU WANT.
5 MS. MADRID: NEXT WEEK IS BAD FOR ME EXCEPT FOR FRIDAY
6 AS I DISCUSSED WITH COUNSEL.

THE COURT: FRIDAY IS FINE WITH ME.

MS. MADRID: IF THAT'S AGREEABLE WITH HER.

MR. MARSHALL: FRIDAY IS FINE FOR US.

THE COURT: LET' S DO IT AT 9:00 AND WE' LL GET DONE WITH OUR CALENDAR BEFORE THAT. WE'LL JUST ORDER MR. BROADNEX OUT FOR FRIDAY, THE 23RD. AND WE' LL JUST ADJOURN THE HEARING UNTIL THEN. ALL RIGHT. THANK YOU FOR BE ING ON TIME. APPRECIATE IT.

MS. MADRID: THANK YOU, YOUR HONOR.

MR. MARSHALL: THANK YOU.

(AN ADJOURNMENT WAS TAKEN UNTIL MONDAY, JULY 23, 2004, AT 9:12 A.M.)

COMPTON, CALIFORNIA; FRIDAY, JULY 23, 2004 9:12 A.M.

DEPARTMENT NO. SC 0 HON. GARY E. DAIGH, JUDGE

(APPEARANCES AS HERETOFORE NOTED.)

THE COURT: ALL RIGHT. WE ARE ON THE RECORD WITH THE BROADNEX MATTER. WE ARE CONTINUING THE EVIDENTIARY HEARING THAT WE BEGAN LAST FRIDAY, JULY 16TH, WHERE WE HEARD FROM MS. CADE AND MS. MIRIAM BROADNEX. WE PUT IT OVER A WEEK SO THAT YOU COULD GET ANOTHER WITNESS WHO APPARENTLY HAS A MEDICAL CONDITION AND WAS UNABLE TO BE HERE ON THE 16TH. AND WHAT IS HIS NAME?

MS. MARSHALL: KEITH MORISETTE, M-O-R-I-S-E-T-T-E.

THE COURT: AND I KNOW THAT YOU SAID HE IS IN A WHEELCHAIR SO MAYBE YOU COULD JUST COME ON OVER HERE AND THEN YOU NEED TO SPEAK UP REAL LOUD.

JAIME, MAYBE YOU CAN HELP HIM, OR MARK.

(BRIEF PAUSE IN PROCEEDINGS.)

THE WITNESS: DO YOU WANT ME TO HOP UP THERE?

THE COURT: NO. THIS IS FINE AS LONG AS YOU KEEP YOUR VOICE UP. IF WE CAN HEAR YOU, WE WON'T NEED THE MICROPHONE.

THE WITNESS: OH, OKAY.
THE COURT: GO AHEAD AND RAISE YOUR RIGHT HAND.

KEITH MORISETTE,
CALLED AS A WITNESS BY THE DEFENDANT, WAS SWORN AND TESTIFIED AS FOLLOWS:

THE CLERK: YOU DO SOLEMNLY STATE THAT THE TESTIMONY YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO HELP YOU GOD.
THE WITNESS: YEAH.
THE COURT: OKAY.
THE CLERK: SIR, WOULD YOU PLEASE STATE AND SPELL YOUR NAME FOR THE RECORD.
THE WITNESS: KEITH MORISETTE, K-E-I-T-H, R-E-N-E, M-O-R-I-S-E-T-T--E.
THE COURT: ALL RIGHT. THANK YOU. IT SOUNDS LIKE YOU' VE GOT A PRETTY GOOD VOICE. THESE LAWYERS ARE GOING TO ASK YOU SOME QUESTIONS. AND WE' LL START WITH MS. MARSHALL.

DIRECT EXAMINATION

BY MS. MARSHALL:
Q. MR. MORISETTE, DO YOU

REMEMBER THE NIGHT THAT
24 THERE WAS A SHOOTING, A MURDER ACTUALLY, IN FRONT OF DEBRA
25 JOHNSON' S HOUSE?
26 A. YES.
27 Q. WAS DAPHNE CADE WITH YOU THAT NIGHT?
28 A. YES.
1 Q. AND WHERE WERE YOU AT THE TIME OF THE MURDER?
2 A. IN MY GARAGE WATCHING TV.
3 Q. AND AT SOME POINT DID YOU HEAR A SHOT?
4 A. YES.
5 Q. AND WHAT DID YOU DO AFTER THAT?
6 A. WENT OUTSIDE BEING NOSEY.
7 Q. DID YOU WALK AROUND, AROUND THE NEIGHBORHOOD?
8 A. THAT' S ABOUT ALL.
9 Q. AND AT SOME POINT DID YOU GO IN THAT DIRECTION
10 AND SEE THE POLICE TAPE?
11 A. THAT WAS AFTER WE CAME BACK FROM WALKING AROUND.
12 Q. OKAY. AT SOME POINT DID MS. CADE -- AT SOME
13 POINT DID YOU BECOME AWARE THAT MS. CADE TESTIFIED AT ROBERT
14 BROADNEX' S TRIAL?
15 A. YES.
16 Q. HOW DID YOU F IND THAT OUT?
17 A. BECAUSE THE POLICE~CAME OVER MY HOUSE AND ASKED
18 FOR HER.

Q. THE POLICE CAME TO YOUR HOUSE AND ASKED FOR MS. CADE?

A. I MEAN, DEBRA BRUMMAN (PHONETIC).

Q. DEBRA?

A. YEAH.

Q. DEBRA CAME TO YOUR HOUSE AND ASKED FOR MS. CADE?

A. SHE CAME OVER TO THE HOUSE AND SHOWED THE POLICE WHERE DAPHNE WAS. TOLD THEM THAT SHE WAS IN THE BACK WITH ME. I CAME OUTSIDE. THEY PULLED ME, MY GRANDMOM AND DAPHNE OUTSIDE AND MADE US STAND BY THE FENCE AND THEY TALKED TO ALL THREE OF US.

Q. AND AT SOME POINT, WERE YOU ARRESTED FOR THIS MURDER?

A. YES.

Q. WHEN WAS THAT?

A. ABOUT TWO OR THREE DAYS LATER.

Q. AND NO CHARGES WERE OF COURSE FILED, CORRECT?

A. THEY DID FILE THEM AT FIRST BUT THEY DROPPED THEM.

Q. SO YOU NEVER WENT TO COURT ON IT?

A. I NEVER WENT TO COURT BUT I WAS ARRESTED FOR MURDER BECAUSE I HAD A TOOTH MISSING OUT OF MY MOUTH AND THEY THOUGHT I WAS FELLA.

Q. YOU ARE NOT FELL~A?

A. NO.
Q. WAS HE IN THE EIGHT TRAY'S AT THAT POINT IN YOUR LIFE?
A. YES.
Q. AND DID YOU HAVE A NICKNAME?
A. YES.
Q. WHAT WAS YOUR NICKNAME?
A. CRZIS.
Q. CRZIS. DID YOU KNOW THAT DAPHNE TESTIFIED AGAINST MR. BROADNEX?
A. I DIDN'T KNOW WHAT SHE SAID, BUT I KNOW WHAT THE POLICE AND DEBRA TOLD HER TO SAY.
Q. BUT YOU KNOW THAT YOU NEVER ACTUALLY WENT TO COURT OR HEARD HER TESTIMONY?

A. NO.
Q. AT SOME POINT LATER DID SHE TELL YOU SHE HAD LIED?
A. YES.
Q. AND DID YOU -- DID SHE EVER ASK YOU TO TRY TO FIND MR. BROADNEX' S FAMILY?
A. YES.
Q. WERE YOU ABLE TO DO THAT?
A. NO. I COULDN'T CATCH UP TO HIS MOMMA, BUT I TRIED TO.
Q. DID YOU GO TO JAIL SOMETIME AFTER THIS MURDER?
A. YES.

Q. DO YOU KNOW WHO COMMITTED THAT MURDER?
A. NO.
MS. MARSHALL: I HAVE NOTHING FURTHER.
THE COURT: CROSS-EXAMINATION.
MS. MADRID: THANK YOU, YOUR HONOR.

CROSS-EXAMINATION

BY MS. MADRID:
Q. NOW, MR. MORISETTE, DID YOU TALK TO AN INVESTIGATOR FROM THE ATTORNEY MS. MARSHALL' S OFFICE REGARDING THIS CASE?
A. I DON' T KNOW WHOSE OFFICE HE WAS FROM, BUT I KNOW I TALKED TO ONE.
Q. AND DO YOU REMEMBER SIGNING A DECLARATION REGARDING WHAT YOU SAID TO THAT INVESTIGATOR?
A. YEAH.

MS. MADRID: YOUR HONOR, MAY I APPROACH THE WITNESS?

THE COURT: YES.

MS. MADRID: COUNSEL, I AM SHOWING HIM A COPY.

MS. MARSHALL: FINE.
Q. BY MS. MADRID: MR.

MORISETTE, I'M SHOWING YOU A

7 COPY THAT AT THE TOP READS
''DECLARATION OF KEITH MORISETTE''

8 AND I'D LIKE TO POINT YOU TO THE BOTTOM
OF THE PAGE. IS THAT
9 YOUR SIGNATURE, SIR?
10 A. YEAH.
11 Q. AND IS YOUR NAME MORISETTE
OR MARISETTE?
12 A. IT'S MORISETTE. YOU SEE
THE DIFFERENCE,
13 M-O-R-I-S-E-T-T-E.
14 Q. SO IT IS INCORRECT IN THE
DECLARATION?
15 A. UH-HUH. IT' S WRONG UP
HERE. THAT' S WHAT I TOLD
16 THE LAWYER.
17 Q. AND POINTING OUT LINE 2 OF
THE DECLARATION, DO

18 YOU RECALL TELLING THE INVESTIGATOR
THAT AT THE TIME OF THE

19 MURDER ESSENTIALLY AT THAT TIME IN
YOUR LIFE YOUR AKA WAS
20 FELLA?
21 A. NO.
22 Q. YOU DID NOT DO THAT?
23 A. NO. L.A.P.D. DID THAT.
24 Q. OKAY. BUT YOU TALKED TO
THE INVESTIGATOR FROM
25 MS. MARSHALL'S OFFICE, DIDN'T
YOU?
26 A. YES.
27 Q. AND ISN'T HE THE PERSON
WHO HAD YOU SIGN THIS

28 DECLARATION?

1 A. YEAH. I TALKED TO HIM AND I SIGNED THE THING.

2 THEY EVEN PUT THIS WRONG (INDICATING) AND I WROTE IT RIGHT.

3 Q. OKAY. SO YOU CORRECTED EIGHT TRAY AND THAT' S

4 YOUR WRITING, RIGHT?

5 A. YES.

6 Q. ORIGINALLY THEY HAD THE WRONG GANG AFFILIATION,

7 CORRECT?

8 A. YES.

9 Q. OBVIOUSLY THEN YOU READ THAT LINE BECAUSE YOU

10 CAUGHT THAT MISTAKE AND YOU CORRECTED IT TO EIGHT TRAY; ISN' T

11 THAT TRUE?

12 A. YES.

13 Q. OKAY. NOW, IT SAYS IN THIS DECLARATION THAT YOUR

14 AKA WAS FELLA AND YOU JUST TESTIFIED THAT IT WAS CRZIS I

15 BELIEVE; IS THAT CORRECT?

16 A. CRZIS.

17 Q. SO WHICH IS THE TRUTH?

18 A. CRZ IS. IT' S RIGHT HERE ON MY ARM, SO YOU CAN

19 READ IT IF YOU WANT TO.

20 Q. SO YOU WERE LYING WHEN YOU

GAVE THIS DECLARATION
21 AND YOU SAID YOUR AKA WAS FELLA?
22 A. NO.
23 Q. DIDN'T YOU THINK IT WAS IMPORTANT TO CORRECT THAT

24 LINE OF YOUR DECLARATION ESPECIALLY SINCE YOU HAD ORIGINALLY
25 BEEN ARRESTED FOR THAT MURDER?
26 A. THAT'S WHAT I DID.
27 Q. BECAUSE THEY MISTAKENLY THOUGHT YOU WERE FELLA?
28 A. YES
1 Q. BUT EIGHT TRAY IS CORRECTED AND FELLA ISN'T
2 CORRECTED; ISN' T THAT TRUE?
3 A. YES.
4 Q. NOW, YOU SAID THAT YOU WERE IN YOUR GARAGE

5 WATCHING TV WITH MS. CADE ON THE NIGHT OF THE SHOOTING,
6 CORRECT?
7 A. YES.
8 Q. WHERE WAS YOUR GARAGE IN RELATION TO WHERE YOU
9 SAW ALL THE POLICE TAPE? HOW FAR AWAY?
10 A. MY GARAGE IS ACROSS THE STREET BEHIND MY
11 GRANDMOMMA' S OLD HOUSE.
12 Q. SO BASICALLY IT IS ACROSS THE STREET BUT TOWARD
13 THE BACK OF YOUR GRANDMOTHER'S PROPERTY?
14 A. YEAH, IT WAS. THEY TORE IT DOWN.

15 Q. OKAY. AND AT THAT T 1MB - - AT THE TIME OF THE

16 SHOOTING HOW DID YOU ENTER THE GARAGE WHERE YOU WERE LIVING?

17 A. WALKED STRAIGHT UP THE DRIVEWAY.

18 Q. AND THE DRIVEWAY OPENED OUT TO WHAT STREET?

19 A. 84TH PLACE, NOT STREET.

20 Q. AND IS THAT THE STREET WHERE YOU SAW ALL THE

21 POLICE TAPE?

22 A. YES. WHEN WE CAME BACK FROM WALKING, BECAUSE

23 THERE WASN'T NOTHING OUT THERE AT FIRST.

24 Q. BUT YOU SAID THAT YOU WERE BE ING NOSEY BECAUSE

25 YOU HEARD THE SHOTS, RIGHT?

26 A. YEAH.

27 Q. AND THAT'S WHAT MADE YOU GUYS COME OUT OF YOUR

28 GARAGE, CORRECT?

A. YEAH.

Q. AND SO ESSENTIALLY THE SHOOTING HAPPENED ON YOUR GRANDMOTHER'S STREET, CORRECT?

A. I DON'T KNOW IF ITDID OR NOT. THAT'S WHAT I CAME OUT TO SEE

Q. AND WHERE DID YOU WALK TO WHEN YOU CAME OUT TO SEE?

A. WALKED DOWN TO VERMONT AND WALKED AROUND, WALKED TO THE STORE. I GOT A COLD ONE AND THEN WE CAME BACK.

Q. AND THAT'S WHEN YOU SAW THE POLICE TAPE?
DID YOU EVER SEE A BODY LYING IN FRONT OF DEBRA JOHNSON'S HOUSE?
A. NO.

Q. WHERE IS DEBRA JOHNSON' S HOUSE IN RELATION TO YOUR GRANDMOTHER'S PROPERTY?

A. RIGHT ACROSS THE STREET.

Q. AND THIS IS A RESIDENTIAL AREA, CORRECT?

A. YES.

Q. AND I ASSUME THEN THAT THERE IS ONE LANE THAT GOES ONE DIRECTION AND IT' S ONLY A TWO-LANE STREET; IS THAT CORRECT?
WELL, IT'S LIKE A "T" IN THE MIDDLE BECAUSE WE THERE AT THE CORNER.

AT THE CORNER OF WHAT?

84TH PLACE AND KANSAS.

DO YOU HAVE STREETLIGHTS ON THAT STREET, 84TH
A.

LIVE RIGHT

Q.

A. EVERYWHERE.
Q. AND IT' S YOUR TESTIMONY TODAY THAT WHEN YOU CAME
OUT OF THE GARAGE ON YOUR GRANDMOTHER' S PROPERTY ACROSS THE
STREET FROM DEBRA JOHNSON' S HOUSE AFTER YOU HEARD GUNSHOTS,
YOU DID NOT SEE A BODY LYING IN FRONT OF DEBRA JOHNSON' S
HOUSE?
A. NO.
Q. WHEN DID YOU FIND OUT -- WELL, YOU TESTIFIED THAT
YOU DID NOT SEE MS. CADE TESTIFY AT THE TRIAL, CORRECT?
A. YEAH.
Q. WHEN DID YOU FIND OUT OR WHEN DID SHE TELL YOU
THAT SHE HAD LIED AT THE TRIAL?
A. WHEN SHE CAME HOME 'CAUSE SHE SAID THAT SHE WAS
SCARED THAT DEBRA AND THE POLICE HAD THREATENED HER.
Q. SO WHEN SHE CAME HOME FROM WHERE?
A. FROM COURT.
Q. AND ISN'T IT TRUE -- WELL, WERE YOU LIVING WITH
MS. CADE THE WHOLE TIME THAT THIS CASE --
A. YES.
Q. -- WAS IN COURT?
IS THAT A "YES"?
A. YES.
Q. SO FROM THE BEGINNING -- FROM THE SHOOTING ITSELF
TO THE TIME THAT MR. BROADNEX WAS CONVICTED, YOU WERE LIVING

25 WITH MS. CADE?
26 A. YES.
27 Q. ISN'T IT TRUE THAT MS. CADE ACTUALLY TESTIFIED
28 TWICE DURING THE COURSE OF THE CASE?

C..-)
1 A. I DIDN' T REALLY PAY ATTENTION. DIDN' T REALLY PAY
2 ATTENTION BECAUSE I WAS GOING THROUGH STUFF MYSELF.
3 Q. OKAY. AND YOU SAID THAT THE FIRST TIME YOU HEARD
4 THAT MS. CADE LIED IS WHEN SHE TOLD YOU SHE LIED, CORRECT?
5 A. YEAH.
6 Q. AND THAT' S WHEN SHE CAME BACK FROM COURT?
7 A. YEAH.
8 Q. IS THAT WHEN SHE CAME BACK FROM COURT DURING THE
9 TRIAL?
10 A. I DON' T KNOW WHAT IT WAS.
11 Q. NOW, DID YOU THINK IT WAS SERIOUS THAT SHE
12 ACTUALLY LIED DURING THE TRIAL?
13 A. YEAH. 'CAUSE I TOLD HER SHE DIDN'T HAVE TO DO
14 THAT.
15 Q. AND SO AFTER SHE TESTIFIED DURING THE TRIAL, DID
16 YOU TRY AND CONTACT ANYBODY TO TELL THEM THAT SHE HAD LIED
17 AND SHE WAS SCARED?
18 A. YEAH.
19 Q. WHO DID YOU TRY AND CONTACT?

A. I TRIED TO CATCH UP TO HIS MOMMA BUT I COULDN'T.
Q. WOULD THAT BE MS. MILLS?
A. YES, MA'AM.
Q. I' M SORRY. I COULDN' T HEAR YOU.
A'. MS. MARRY. I DON' T KNOW HER LAST NAME.
Q. AND HOW LONG HAVE YOU KNOWN MR. BROADNEX?
A. SINCE WE WAS 12.
Q. SO PRETTY MUCH YOUR TEENAGE YEARS AND YOUR ADULT LIFE, CORRECT?

63

A. YES. THAT'S ABOUT '73, '74.
Q. AND DO YOU KNOW MR. BROADNEX'S SISTER?
A. WHICH ONE.
Q. HOW MANY DOES HE HAVE? THAT'S A GOOD QUESTION.
A. HE HAD TWO THAT I KNEW.
Q. AND DID YOU KNOW THOSE TWO SISTERS AT THE TIME OF THE SHOOTING?
A. YES.
Q. DID YOU KNOW THOSE TWO SISTERS AT THE TIME OF THE TRIAL?
A. YES.
Q. AND DID YOU EVER TRY AND CONTACT EITHER OF THOSE TWO SISTERS?
A. NO, NOT THAT I REALLY KNOW OF.
Q. AT THE TIME OF THE TRIAL TO YOUR KNOWLEDGE HAD

16 YOU -- WELL, LET ME ASK YOU THIS: TO YOUR KNOWLEDGE DID THE
17 TWO SISTERS OF MR. BROADNEX RESIDE IN LOS ANGELES?
18 A. I THINK THEY DID.
19 Q. AND FROM THE TIME OF THE TRIAL WHEN YOU SAY
20 MS. CADE TOLD YOU SHE LIED AT TRIAL TO THE TIME THAT WE SIT
21 HERE TODAY, DID YOU SEE MR. BROADNEX' S TWO SI STERS AROUND THE
22 NEIGHBORHOOD OR ON THE-STREET?
23 A. THEY NEVER CAME AROUND THE NEIGHBORHOOD.
24 Q. DOES MR. BROADNEX HAVE ANY BROTHERS?
25 A. HE HAD ONE THAT I KNEW.
26 Q. AND IS THIS BROTHER STILL ALIVE?
27 A. HE GOT KILLED.
28 Q. AND DID HE GET KILLED BEFORE OR AFTER THE
1 SHOOTING THAT MR. BROADNEX WAS CONVICTED FOR?
2 A. I THINK IT WAS AFTER.
3 Q. AND WAS HE ALSO AN EIGHT TRAY?
4 A. NO,
5 Q. DID HE LIVE IN THE NEIGHBORHOOD?
6 A. NO.
7 Q. DID HE EVER VISIT ANYONE IN THE NEIGHBORHOOD?
8 A. NO.
9 Q. DID YOU SEE HIM FROM THE TIME OF THE SHOOTING TO
10 THE TIME OF MR. BROADNEX'S CONVICTION?

A. I THINK I WAS WORKING ON HIS CAR 'CAUSE HE HAD A LOW RIDER.

Q. AND DID YOU EVER TELL HIM THAT MS. CADE TOLD YOU SHE LIED ON MR. BROADNEX DURING HIS TRIAL?

A. I MIGHT HAVE.

Q. YOU DON'T REMEMBER?

A. NOT EXACTLY.

Q. AT THE TIME OF THE SHOOTING, WAS MR. BROADNEX AN EIGHT TRAY IN THE SAME SET AS YOU WERE IN AT THAT TIME?

A. YES.

Q. AND ABOUT HOW MANY OTHER EIGHT TRAY MEMBERS WERE THERE IN THAT NEIGHBORHOOD AT THE TIME OF THE SHOOTING?

A. THE WHOLE NEIGHBORHOOD.

Q. THE WHOLE NEIGHBORHOOD. TO YOUR KNOWLEDGE DID ANY OF THE OTHER EIGHT TRAY GANGSTER ASSOCIATES THAT YOU KNEW AT THAT TIME AT THE TIME OF THE SHOOTING KNOW THAT MS. CADE LIED?

A. I THINK SO. MAYBE. I DON'T KNOW. I REALLY CAN' T SAY 'CAUSE SHE DIDN' T REALLY DISCUSS NOTHING WITH NOBODY BUT ME.

Q. DO YOU KNOW MR. BROADNEX'S WIFE?

A. YES, I DO NOW.
Q. AND WHEN DID YOU FIRST MEET MR. BROADNEX' S WIFE?
A. FOUR, FIVE MONTHS AGO.
Q. AND DID YOU DRIVE WITH HER TO COURT TODAY?
A. YES.
Q. AND IS MR. BROADNEX' S MOTHER IN COURT TODAY?
A. YES.
Q. CAN YOU TELL ME WHAT SHE IS WEARING?
A. SHE GOT ON PINK.
Q. AND AFTER THE TRIAL -- WELL, LET ME ASK YOU THIS:

YOU'VE OBVIOUSLY SEEN HER TODAY BECAUSE SHE IS SITTING HERE

IN COURT AND YOU JUST IDENTIFIED HER. PRIOR TO TODAY, WHEN DID YOU SEE MS. MARRY MILLS?
A. PRIOR TO TODAY?
Q. YES.
A. I HAVEN'T SEEN HER IN A LONG TIME.
Q. CAN YOU GIVE ME AN ESTIMATE ON WHAT A LONG TIME IS? IS IT MONTHS? IS IT YEARS?
A. YEARS.
Q. HOW MANY YEARS?
A. SINCE HER SON GOT KILLED. I HAVEN'T REALLY SEEN HER SINCE THEN.
Q. AND THAT WOULD BE MR. BROADNEX' S BROTHER THAT YOU JUST MENTIONED IN YOUR

TESTIMONY?

A. UH-HUH.

Q. AND YOU SAID THAT HER SON GOT KILLED AFTER MR. BROADNEX WAS CONVICTED, CORRECT?

A. IT WAS SOMEWHERE AROUND THERE.

Q. AND SINCE YOU SAW MS. MILLS AFTER MR. BROADNEX HAD BEEN CONVICTED AND THAT WAS AFTER MS. CADE APPARENTLY TOLD YOU SHE LIED, YOU DIDN'T MENTION THAT TO MS. MARRY MILLS
AT THE TIME
THAT YOU SAW HER AROUND THE DEATH OF HER SON?

A I DIDN'T DO WHAT?

Q OKAY.

A. SAY IT STRAIGHT.

Q. OKAY. YOU JUST TESTIFIED THAT YOU COULDN' T

LOCATE MS. MARRY, AS YOU CALL HER, MR. BROA.DNEX' S MOTHER TO

TELL HER THAT MS. CADE TOLD YOU SHE LIED AT TRIAL. THAT WAS

WHAT YOU JUST SAID, CORRECT?

A. YEAH.

Q. AND YOU ALSO TESTIFIED THAT HER SON, HER OTHER SON, MR. BROADNEX' S BROTHER, WAS KILLED AFTER MR. BROADNEX WAS

CONVICTED. THAT' S YOUR TESTIMONY, CORRECT?

A.
YEAH.

Q AND YOU JUST TESTIFIED THAT YOU SAW MS. MILLS AROUND THE

TIME THAT HER SON WAS KILLED; ISN'T THAT CORRECT?
A YEAH.

Q SO YOU SAW MS. MILLS AFTER YOU KNEW MS. CADE LIED; ISN'T THAT TRUE?

A. SO YOU'RE SAYING I SEEN MS. MILLS AFTER I KNEW MS. CADE LIED, BUT I DIDN'T SAY THAT I SEEN MS. MARRY AFTER FELLA GOT CONVICTED.

Q. WELL, YOU JUST SAID THAT YOU SAW MS. - - WELL,

---

1 LET' S CALL HER MR. BROADNEX' S MOTHER FOR THE RECORD. YOU

2 SAID THAT YOU SAW MR. BROADNEX'S MOTHER AT THE TIME THAT HER
3 OTHER SON WAS KILLED; CORRECT?
4 A. I SEEN HER AT THE TIME THAT KITA GOT KILLED.
5 Q. AND YOU SAID HE GOT KILLED AFTER MR. BROADNEX WAS
6 CONVICTED?
7 A. I THINK HE DID. I KNEW IT WAS SOMEWHERE AROUND

8 THE SAME TIME. BUT I DON' T KNOW EXACTLY WHEN FELLA GOT
9 CONVICTED BECAUSE I WASN'T KEEPING UP WITH IT.
10 Q. EVEN THOUGH YOU KNEW THAT MS. CADE HAD LIED ON

11 ONE OF YOUR ASSOCIATES, YOU WEREN'T KEEPING UP WITH IT?
12 A. IT WASN'T MY JOB TO KEEP UP WITH IT.
13 Q. MR. MORISETTE, YOU TESTIFIED ON DIRECT

14 EXAMINATION THAT AFTER THE MURDER YOU WENT TO JAIL; ISN'T
15 THAT CORRECT?
16 A.' YES.
17 Q. DID YOU END UP BEING CONVICTED OF ANYTHING AFTER
18 YOU WERE SENT TO JAIL?
19 A. YES.
20 Q. AND WHAT WERE YOU CONVICTED OF?
21 A. HAVING MY NEIGHBOR'S SHOTGUN.
22 Q. SO YOU WERE CONVICTED OF EX-CON WITH A FIREARM?
23 A. YEAH.
24 MS. MADRID: MAY I HAVE A MOMENT, YOUR HONOR?
25 THE COURT: YEAH.
26
27 (BRIEF PAUSE IN PROCEEDINGS.)
28
£8

Q. BY MS. MADRID: DID YOU EVER COMMUNICATE WITH MR. BROADNEX AFTER HE WAS SENT TO PRISON FOR THIS SHOOTING?

A. NO.

Q. SO FROM THE TIME OF HIS CONVICTION FOR THIS SHOOTING TO THE TIME THAT YOU SIT HERE IN COURT YOU HAVE HAD NO CONTACT WITH MR. BROADNEX?

A. NONE AT ALL.

Q. WERE YOU AWARE THAT MR. BROADNEX GOT MARRIED?

A. NO.

Q. ARE YOU AWARE THAT HE IS MARRIED AS YOU SIT HERE TODAY?

A. YEAH.

Q. WHEN DID YOU FIRST FIND OUT THAT MR. BROADNEX WAS MARRIED TO MIRIAM BROADNEX?

A. ABOUT SIX MONTHS AGO WHEN I TALKED TO - - WELL, LET ME SEE. I CAN' T SAY SIX MONTHS 'CAUSE I ' M GETTING THAT MIXED UP WITH WHEN YOU ASKED ME WHEN DID I FIRST MEET HER.

BUT I THINK THAT D.A. GUY TOLD ME, THE INVESTIGATOR.

Q. YOU MEAN THE DEFENSE

INVESTIGATOR?
A. YEAH.
Q. AND WHEN DID YOU FIRST MEET MIRIAM BROADNEX?
A. THAT WAS EARLIER THIS YEAR, ABOUT FOUR, FIVE MONTHS AGO.
Q. I THINK YOU JUST TESTIFIED THAT YOU FOUND OUT HE

WAS MARRIED ABOUT FOUR OR FIVE MONTHS AGO, CORRECT?
A. THAT' S WHEN I MET HER.
Q. DIDN' T YOU JUST SAY THAT YOU MET HER BEFORE YOU FOUND OUT THEY WERE MARRIED?
£5

A. NO.
Q. THAT' S NOT YOUR TESTIMONY?
A. NO. I DIDN' T SAY THAT.
Q. DO YOU KNOW ANY OF MIRIAM BROADNEX' S FAMILY?
A. NO.
Q. AT THE TIME OF THE SHOOTING WHERE WAS MR. BROADNEX LIVING?
A. I THINK HE WAS LIVING WITH HIS MOMMA AND THEM ON 118TH.
Q. AND WHERE DOES HIS MOTHER LIVE NOW?
A. I THINK SHE STILL LIVE OVER THERE.
Q. IN THE SAME HOUSE ON 118TH?

13 A. UH-HUH.

14 MS. MADRID: I HAVE NOTHING FURTHER.

15 THE COURT: THE NIGHT OF THE SHOOTING WHAT TIME WAS IT

16 WHEN YOU HEARD THE SHOT? WHEN YOU HEARD WHAT YOU THOUGHT WAS
17 A SHOT OR SHOTS.

18 THE WITNESS: IT HAD TO BE AT LEAST 10:00 0' CLOCK.

19 THE COURT: AT NIGHT?

20 THE WITNESS: UN - HUH.

21 THE COURT: "YES"? YOU' VE GOT TO SAY "YES" FOR THE
22 REPORTER.

23 THE WITNESS: YES.

24 THE COURT: HOW MANY SHOTS DID YOU HEAR?

25 THE WITNESS: I DIDN' T PAY ATTENTION BUT I KNEW IT WAS
26 SOME SHOOTING.

27 THE COURT: MORE THAN ONE OR ONE OR DO YOU KNOW?

28 THE WITNESS: I THINK IT WAS MORE THAN ONE SHOT.
73
1 THE COURT: YOU WERE IN

THE GARAGE AT THE TIME?
THE WITNESS: YEAH.
THE COURT: AND WHAT DID YOU DO AFTER YOU HEARD THE SHOT OR SHOTS?
THE WITNESS: WE CAME OUT PEEKING TO SEE IF IT WAS ANY OF MY FRIENDS THAT GOT HIT.
THE COURT: AND WHAT DID YOU SEE WHEN YOU PEEKED OUT OF THE GARAGE? -
THE WITNESS: NOTHING.
THE COURT: DIDN'T SEE ANYBODY RUNNING OR ANY BODIES OR ANYTHING ELSE? -
THE WITNESS: WASN'T NOBODY AROUND.
THE COURT: COULD YOU SEE DEBRA JOHNSON' S APARTMENT FROM YOUR GARAGE?
THE WITNESS: DEBRA JOHNSON NEVER LIVED IN THE APARTMENT.
THE COURT: HER HOUSE THEN. WELL, WHERE WAS SHE LIVING?
THE WITNESS: SHE WAS LIVING IN A TRAILER IN HER GRANDMOMMA' S DRIVEWAY.
THE COURT: COULD YOU SEE THAT FROM YOUR GARAGE?
THE WITNESS: NOPE. NO WAY.
THE COURT: WHAT DID YOU DO WHEN YOU SAW THAT THERE WAS NONE OF YOUR FRIENDS INVOLVED? WHAT DID YOU DO YOU? WENT SOMEWHERE?

26 THE WITNESS: WHEN WE CAME OUT, WE DIDN'T SEE NOBODY
27 OUT THERE. PEEKED AROUND FOR A MINUTE. THEN WE WENT FOR A
28 WALK. WENT UP THERE. I SAID LET' S GO GET A COLD ONE. WE

77

1 THE COURT: I KNOW THAT. WHAT DID SPECIFICALLY
2 MS. CADE TELL YOU ABOUT WHAT -- DID SHE TELL YOU THE
3 SPECIFICS ABOUT WHAT THEY SAID?
4 THE WITNESS: YES.
5 THE COURT: WHAT DID SHE SAY.
6 THE WITNESS: SHE TOLD ME IF SHE DIDN' T SAY WHAT THEY
7 TOLD HER TO, THAT SHE WAS GONNA GET IN TROUBLE.
8 THE COURT: DID SHE TELL YOU WHAT TROUBLE MEANT TO
9 HER?
10 THE WITNESS: HUH -.
11 THE COURT: DID SHE TELL YOU SPECIFICALLY LIKE THE
12 FACTS, LIKE SAY THAT SHE SAW THIS PERSON SHOOT THIS PERSON OR
13 DID SHE JUST GENERALLY SAY THEY TOLD HER WHAT TO SAY?
14 THE WITNESS: GENERALLY THEY JUST TOLD HER WHAT TO
15 SAY.
16 THE COURT: I THINK MS. MARSHALL ASKED AND MS. MADRID
17 ASKED ALSO ABOUT YOU GOING TO JAIL AFTER THE MURDER AND I
18 GUESS IT WAS FOR EX-CON WITH A GUN. HOW LONG WERE YOU AWAY

FOR THAT?
THE WITNESS: THIRTY-TWO MONTHS.
THE COURT: AND HOW LONG AFTER THE MURDER DID YOU GO IN FOR THAT, IF YOU KNOW?
THE WITNESS: THAT WAS 1996.
THE COURT: SO '96 TO '98 MAYBE?
THE WITNESS: IT WAS SOMETHING LIKE THAT 'CAUSE I WAS GONE 32 MONTHS 'CAUSE THEY GAVE ME 16 MONTHS AND DOUBLED IT.
THE COURT: MS. MADRID WAS ASKING YOU ABOUT WHEN YOU FIRST TOLD SOMEBODY ABOUT THE FACT THAT MS. CADE HAD LIED AND

73

CORRECT ME IF I ' M WRONG. I THOUGHT YOU SAID THAT YOU THOUGHT

YOU SAW MR. BROADNEX' S MOM AFTER HI S BROTHER WAS MURDERED.

THE WITNESS: YEAH.

THE COURT: WHICH WAS AFTER THE TRIAL. AND I GUESS

HER QUESTION WAS IF THAT' S THE CASE, WHY WOULDN' T YOU TELL THE MOM THEN THAT MS. CADE HAD LIED.

7 THE WITNESS: I DON'T KNOW IF IT WAS AFTER THE TRIAL
8 OR BEFORE THE TRIAL WHEN KITA GOT KILLED.

9 THE COURT: SO YOU DON' T REALLY RECALL WHETHER IT WAS
10 OR IT WASN'T?

11 THE WITNESS: UN-HUH. I REALLY DON' T KNOW IF IT WAS
12 BEFORE THE TRIAL OR AFTER THE TRIAL.

13 THE COURT: BUT, WHETHER IT WAS BEFORE, YOU

14 DIDN'T -- YOU DON'T RECALL TELLING MR. BROADNEX'S MOM THAT

15 MS. CADE TOLD YOU SHE LIED?

16 THE WITNESS: I DON' T REMEMBER.

17 THE COURT: AND WHEN IS THE FIRST PERSON. THAT YOU
18 TOLD - - OR WHO IS THE FIRST PERSON YOU TOLD?

19 THE WITNESS: I HAVEN'T TOLD ANYBODY UNTIL I TALKED TO

20 THE DETECTIVE AND STUFF. I AIN'T BEEN RUNNING AROUND TALKING

21 ABOUT NOBODY' S STUFF. I DON'T DO IT.

22 THE COURT: THE DECLARATION OF THIS

WITNESS IS BACK IN
23 THE BACK. COULD I SEE THAT?

24 MS. MADRID: YES, YOUR HONOR.

25 THE COURT: YOU HAVE MS. CADE' S DECLARATION TOO.

26 MS. MADRID: YES, I DO. WELL, LET ME HAND YOU THIS
27 ONE FIRST IF THAT' S ALL RIGHT. MAY 1 APPROACH?

28 MS. MARSHALL: I HAVE MS. CADE' S -
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1 THE COURT: CAN I LOOK AT THAT FOR A MINUTE?
2 SO YOU AND MR. BROADNEX USED TO BE IN THE SAME
3 GANG, RIGHT?
4 THE WITNESS: YES.
5 THE COURT: AND YOU' VE KNOWN HIM FOR, I DON' T KNOW, 20
6 YEARS?
7 THE WITNESS: MORE THAN THAT. ABOUT 30.
8 THE COURT: AND YOU KNEW THAT HE WAS - - THAT MS. CADE
9 HAD LIED ON HIM?
10 THE WITNESS: YES.
11 THE COURT: SO WHY DIDN' T YOU DO EVERYTHING YOU COULD
12 TO TELL SOMEBODY THAT?
13 THE WITNESS: 'CAUSE I HAD OTHER THINGS TO DO FOR
14 MYSELF.
15 THE COURT: LIKE WHAT?
16 THE WITNESS: HUH?

17 THE COURT: LIKE WHAT?
18 THE WITNESS: THAT AIN'T FOR ME TO SAY TO Y'ALL. IT
19 MIGHT BE PERSONAL.
20 THE COURT: WELL, WHAT DOES THAT MEAN? I MEAN,
21 GENERALLY WHAT DO YOU MEAN?
22 THE WITNESS: I HAD OTHER THINGS IN MY LIFE TO DO.
23 HAD OTHER BUSINESS TO TAKE CARE OF.
24 THE COURT: WHAT DOES THAT MEAN?
25 THE WITNESS: THAT MEANS I HAD OTHER THINGS TO DO.
26 THE COURT: WELL, WHAT WOULD BE MORE IMPORTANT THAN
27 CLEARING A FELLOW GANG MEMBER THAT YOU KNEW WAS WRONGLY
28 CONVICTED?
75

1 THE WITNESS: THAT' S WHY I ' M HERE TODAY.

2 THE COURT: NO. I ' M SAYING WHAT WOULD BE MORE

3 IMPORTANT OVER THE LAST TEN YEARS THAN HELPING OUT SOMEONE

4 WHO WAS A GANG MEMBER WHO WAS FALSELY CONVICTED? WHAT WOULD
5 BE MORE IMPORTANT THAN THAT?

6 THE WITNESS: LOTS OF THINGS.

7 THE COURT: FOR EXAMPLE.

8 THE WITNESS: I CAN' T SAY TO Y' ALL LIKE THAT. I CAN' T
9 TALK TO Y'ALL LIKE THAT.

10 THE COURT: WELL --

11 THE WITNESS: THAT' S PERSONAL.

12 THE COURT: -- YOU'RE TELLING ME THAT A DEAR FRIEND OF

13 YOURS WAS WRONGLY CONVICTED AND YOU DON'T WANT TO TELL ME

14 WHAT WAS MORE IMPORTANT THAN TELLING SOMEBODY THAT?

15 THE WITNESS: UN-HUH.

16 THE COURT: SQ IF I ORDER YOU TO DO THAT, YOU ARE NOT
17 GOING TO ANSWER THOSE QUESTIONS, RIGHT?

18 THE WITNESS: I CAN' T SAY LIKE THAT.

19 THE COURT: WHAT DOES THAT MEAN?

20 THE WITNESS: BECAUSE I MIGHT GET KILLED FOR IT.

21 THE COURT: OKAY. ARE YOU SAYING THAT YOU KNOW WHO
22 DID IT?

THE WITNESS: I DON'T KNOW WHO DID IT. IT COULD HAVE BEEN HER BOYFRIEND. AIN'T NO TELLING BECAUSE DEBRA WAS A DOPE FIEND.

THE COURT: OKAY. WITHOUT BEING SPECIFIC THEN, YOU DON' T HANG AROUND WITH GANGS ANY MORE?

THE WITNESS: NO.

THE COURT: HOW OLD ARE YOU NOW?

THE WITNESS: FORTY-THREE.

THE COURT: YOU' RE TOO OLD FOR THAT?

THE WITNESS: YES. I 'M A GRANDFATHER.

THE COURT: BACK TEN OR 12 YEARS AGO WHEN THIS WAS GOING ON, ARE YOU SAYING THAT YOU WERE INVOLVED IN THINGS THAT GANGS ARE INVOLVED IN AND YOU WERE MORE CONCERNED ABOUT THAT THAN MR. BROADNEX' S PROBLEM?

THE WITNESS: NO. I WAS CONCERNED ABOUT MAKING MONEY. THAT' S WHAT I WAS DOING.

THE COURT: AND AGAIN, I UNDERSTAND

THAT YOU DON' T

12 WANT TO TELL ME. BUT THERE WAS LIKE EIGHT OR NINE OR TEN

13 YEARS BETWEEN THE TIME HE WAS WRONGLY CONVICTED AND THE

14 INVESTIGATOR CAME TO YOU. I GUESS IF THE INVESTIGATOR NEVER

15 CAME - - THAT' S A BAD QUESTION. HOW DID SOMEBODY GET A HOLD

16 OF YOU SQ THAT YOU WOULD TALK TO THE INVESTIGATOR?

17 THE WITNESS: BECAUSE THEY KNEW I WAS TOOK TO' JAIL FOR
18 MURDER.

19 THE COURT: I MEAN, DID THE INVESTIGATOR JUST SORT OF
20 CALL YOU UP AND SAY CAN WE TALK?

2]. THE WITNESS: YEAH.

22 THE COURT: AND THAT'S THE FIRST TIME YOU TOLD ANYBODY
23 ABOUT IT?

24 THE WITNESS: UN-HUH. THAT' S THE F IRST TIME I TALKED
25 TO HIM ABOUT IT.

26 THE COURT: AND IF HE HAD NOT CALLED YOU, YOU WOULDN'T

27 HAVE PROBABLY COME FORWARD ON YOUR OWN?

28 THE WITNESS: I WOULDN'T HAVE PROBABLY EVEN BE

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1 THINKING ABOUT IT.
2 THE COURT: I KNOW YOU WENT TO PRISON FOR 32 MONTHS IN
3 '96, '97, '98 AND THIS OCCURRED BACK IN, WHAT, '92?
4 MS. MARSHALL: YES.
5 MS. MADRID: YES.
6 THE COURT: WERE YOU IN THE NEIGHBORHOOD PRETTY MUCH
7 FROM '92 TO '98 OR WERE YOU GONE OTHER PLACES?
8 THE WITNESS: I WAS PRETTY MUCH IN THE NE IGHBORHOOD.
9 THE COURT: THEN WHEN YOU GOT OUT IN '98, YOU HAVE
10 BEEN IN THE NEIGHBORHOOD SINCE THEN?
11 THE WITNESS: SOMEWHAT. 'CAUSE I WENT RIGHT BACK TO
12 PRISON AND I AM STILL ON PAROLE.
13 THE COURT: YOU VIOLATED PAROLE?
14 THE WITNESS: YES.
15 THE COURT: WHEN DID YOU GET OUT THE LAST TIME ON
16 PAROLE?
17 THE WITNESS: 2002.
18 THE COURT: CAN YOU GIVE ME ANY HINT AS TO WHAT YOU
19 MEANT BY I WAS INVOLVED IN OTHER THINGS SO I COULDN'T COME

FORWARD EARLIER?
THE WITNESS: BECAUSE I WAS HUSTLING. I WAS DOING MY OWN THING. I HAD OTHER THINGS TO DO FOR MYSELF.
THE COURT: 50 ARE YOU SAYING THAT IF YOU WENT TO THE POLICE, THEY MIGHT HAVE WANTED TO KNOW WHAT YOU WERE DOING IN OTHER THINGS?
THE WITNESS: YEAH. THEY MIGHT HAVE CHANGED THE STORY TOO 'CAUSE THEY DON'T LIKE ME.
THE COURT: AND SO YOU WERE AFRAID OF GOING TO THE
78
POLICE FOR BEING ARRESTED FOR OTHER THINGS?
THE WITNESS: BECAUSE MY LIFE DEPENDED ON IT.
THE COURT: THEN WHY DIDN' T YOU GO TO THE FAMILY?
THE WITNESS: HUH?
THE COURT: WHY DIDN'T YOU GO TO THE FAMILY?
THE WITNESS: I DID GO TO THE FAMILY. I WENT AROUND THERE, BUT I NEVER COULD CATCH UP TO THEM.
THE COURT: WHAT DID YOU DO TO TRY TO FIND THEM?
THE WITNESS: WENT OVER THERE IN MY CAR.
THE COURT: OVER WHERE?
THE WITNESS: OVER WHERE HIS MOMMA USED TO LIVE AT.
WHERE I KNEW SHE LIVED AT OVER THERE ON 118TH BUT I NEVER

CAUGHT UP TO THEM.

THE COURT: MS. MARSHALL, OTHER QUESTIONS?

MS. MARSHALL: YES, I DO. THANK YOU, YOUR HONOR.

REDIRECT EXAMINATION

BY - MS. MARSHALL:

Q. WHEN MR. -- DO YOU REMEMBER THE INVESTIGATOR THAT CAME TO SEE YOU THAT YOU MADE THIS DECLARATION FOR OR WHEN YOU -SIGNED THE DECLARATION?

A. YEAH. I NEVER KNEW HIM UNTIL I SEEN HIM THEN.

Q. WHEN YOU LOOKED OVER YOUR DECLARATION, IF YOU HAD NOTICED THAT IT SAID FELLOW INSTEAD OF CRZIS, WOULD YOU HAVE CHANGED IT?

A. YES.

Q. WHEN YOU LOOKED OVER AND YOU SAW THAT IT SAID~3 79

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1 EAST COAST, YOU CHANGED IT TO EIGHT TRAY?

A. YEAH.

Q. SO DID YOU TRY TO READ IT?

A. UN-HUH.

Q. AND YOU ACTUALLY SIGNED YOUR NAME CORRECTLY ON THE BOTTOM?

A. YES.

Q. DID YOU NOTICE THAT IT WAS

MISSPELLED AT THAT
TIME?
A. YEAH. UP AT THE TOP.
Q. AT THE TOP. DID YOU NOTICE THAT IT WAS
MISSPELLED AT THE BOTTOM TOO?
A. NO. IT WAS RIGHT AT THE BOTTOM BECAUSE I PUT IT
DOWN THERE.
Q., BECAUSE YOU WROTE IT YOURSELF?
A. UN-HUH.
Q. IF I TOLD YOU THAT MR. BROADNEX' S BROTHER WAS

KILLED IN 1985, WOULD THAT BE IMPOSSIBLE FOR YOU TO BELIEVE?
A. YEAH. 'CAUSE I KNEW IT WAS LATER THAN THAT.
Q. BUT YOU' RE NOT REALLY SURE WHEN IT WAS?
A. NO. BUT I KNOW IT WAS LATER THAN THAT.
Q. DID YOU GO TO THE FUNERAL?
A. NO.
Q. SO YOU WENT TO - - YOU MENTIONED YOU SAW MS. MARRY

AROUND THE TIME HIS BROTHER WAS KILLED. WAS THAT SOME KIND
OF A SOCIAL EVENT?
A. NO. 'CAUSE I WAS WORKING ON HIS LOW RIDER.
Q. THE FELLOW THAT WAS KILLED?

80

A. YEAH, HIS BROTHER.
Q. WHAT WAS HIS FIRST NAME?

A. THEY CALLED HIM KITA. I DON' T KNOW IF THAT WAS HIS REAL NAME OR NOT.

Q. SO YOU WERE WORKING ON KITA' S LOW RIDER AROUND THE TIME THAT HE WAS KILLED?

A. YES. THAT' S HOW I FOUND OUT BECAUSE I WENT OVER THERE TO HELP HIM DO SOMETHING FOR IT AND THEY TOLD ME WHAT HAD HAPPENED.

Q. HE WAS SHOT; IS THAT CORRECT?

A. UN-HUH.

Q. WHEN YOU GAVE THIS DECLARATION, DID YOU ALREADY KNOW AT THAT TIME THAT DAPHNE HAD MADE A DECLARATION?

A. NO. I DIDN' T KNOW WHAT SHE HAD TOLD THEM FOLKS.

Q. YOU DIDN'T KNOW WHAT SHE HAD TOLD THEM BUT YOU KNEW SHE WAS COMING FORWARD TO TRY TO HELP?

A. YEAH.

Q. AND DID THAT IN SOME WAY MAKE YOU WILLING TO COME FORWARD YOURSELF?

A. YEAH. IT WASN'T NO PROBLEM FOR ME.

Q. YOU CARE ABOUT DAPHNE, DON' T YOU?

A. YEAH.

Q. YOU'VE BEEN WITH HER A LONG TIME?

A. TWENTY YEARS.

Q. KIND OF ON AND OFF?

A. YEAH.

27 Q. SO YOU WERE IN FACT KIND OF INTERESTED IN
28 PROTECTING HER ALL THOSE YEARS FROM LYING ON AN EIGHT TRAY

81

1 GANGSTER?
2 A. YEAH.
3 Q. WELL, YOU SAID YOU DON'T KNOW WHO DID THE MURDER.
4 A. NO.
5 Q. IF AN EIGHT TRAY DID IT, DO YOU THINK YOU WOULD
6 KNOW?
7 A. YES. IT WOULDN' T BE NO PROBLEM.
8 Q. DID THE POLICE EVER -- WELL, OF COURSE, YOU WERE

9 ARRESTED FOR THE MURDER, BUT DID THEY ASK YOU QUESTIONS ABOUT

10 WHETHER OR NOT YOU DID IT OR IF YOU KNOW WHO DID IT AND THAT
11 KIND OF THING?
12 A. YEAH. I WENT THROUGH THE WHOLE NINE YARDS.
13 Q. AND YOU TOLD THEM EVERYTHING YOU KNEW?
14 A. YEAH.
15 Q. DID YOU KNOW IF MR. BROADNEX HAD CASTS ON HIS
16 ARMS AROUND THAT TIME?
17 A. I REALLY CAN' T SAY.
18 Q. YOU DON'T REMEMBER?
19 A. I DON'T REMEMBER.

Q. DID YOU SEE HIM REAL FREQUENTLY AROUND THAT TIME?
A. OFF AND ON. 'CAUSE HE WAS DOING HIS THING AND I WAS DOING MINE.
Q. WAS IT KIND OF EMBARRASSING FOR YOU THAT DAPHNE WENT IN AND LIED ON MR. BROADNEX?
A. YES.
Q. DID YOU KNOW DEBRA JOHNSON?
A. YES.
Q. WAS SHE A FRIEND OF YOURS?

82

A. NO. SHE IS MY FRIEND'S MOMMA.
Q. SHE IS YOUR FRIEND'S MOTHER?
A. YES.
Q. THAT WOULD BE MICHAEL FERGUSON?
A. YES.
Q. MICHAEL FERGUSON WAS AN EIGHT TRAY ALSO, WASN'T HE?
A. NO. HE WAS A BUSTER.
Q. HE WAS WHAT?
A. HE WAS A BUSTER.
Q. WHAT DOES A BUSTER MEAN?
A. A HOOK. A LITTLE PUNK.
MS. MARSHALL: COULD I HAVE A MOMENT, YOUR HONOR?
THE COURT: SURE.

(BRIEF PAUSE IN PROCEEDINGS.)

17

18 Q. BY MS. MARSHALL: SO YOU SAID YOU THINK YOU WOULD

19 HAVE KNOWN IF AN EIGHT TRAY HAD SHOT - - HAD COMMITTED THAT

20 MURDER. WHY IS THAT?

21 A. BECAUSE I KNOW I WOULD HAVE KNEW BECAUSE I WAS

22 THE LEADER AND THE SHOT COLLAR AT THAT TIME.

23 Q. SO THEY WOULD HAVE TOLD YOU IF NOTHING ELSE?

24 A. IT WOULD HAVE BEEN THEIR JOB TO TELL ME.

25 Q. WERE OTHER PEOPLE IN THAT VICINITY BESIDES EIGHT

26 TRAY' S HANGING AROUND MS. JOHNSON' S HOUSE?

27 A. IF THEY WERE, THEY WERE DOPE FIENDS.

28 Q. IF DAPHNE TESTIFIED THAT SHE HAD BEEN STAYING OR

83

1 STAYED IN THAT TRAILER FOR A COUPLE OF DAYS AT THAT TIME,

2 WOULD THAT BE TRUE?

3 A. SHE MIGHT HAVE.

4Q. WHAT KIND OF TRAILER ARE WE TALKING ABOUT? WHO

5 STAYED IN THAT TRAILER?

6A. DEBRA AND HER BOYFRIEND NELSON.

7Q. AND WHO ELSE?

8A. ANYBODY THAT SMOKED DOPE.

9Q. HOW ABOUT DID YOU KNOW THIS GUY THAT WAS KILLED,

10 ROBERTO?

11 A. NO. I DIDN'T KNOW HIM. I SEEN HIM A FEW TIMES
12 'CAUSE HE HAD A LOW RIDER AND I USED TO HIT MY SWITCH ON HIM.
13 Q. DID YOU HAVE ANY IDEA WHAT HE WAS DOING THERE IN
14 THE NEIGHBORHOOD?
15MS. MADRID: OBJECTION. CALLS FOR SPECULATION.
16 THE COURT: IT'S OVERRULED.

17 YOU MAY ANSWER.

18 THE WITNESS: DO YOU WANT ME TO TELL YOU?

19 THE COURT: YEAH.

20 THE WITNESS: HE WAS SELLING DOPE.
21 Q. BY MS. MARSHALL: DID MS. JOHNSON HAVE ANYTHING
22 AGAINST MR. BROADNEX THAT YOU KNOW OF?
23 A. YEAH.
24 Q. WHAT WAS THAT?

25 MS. MADRID: OBJECTION. CALLS FOR SPECULATION AND
26 HEARSAY.

27 THE COURT: OVERRULED.

28 THE WITNESS: SO WHAT YOU WANT ME TO DO?

84
1 THE COURT: GO AHEAD AND ANSWER THE QUESTION.

THE WITNESS: WELL, SHE JEALOUS OF HIM AND A LOT OF OTHER FELLAS AROUND THE NEIGHBORHOOD BECAUSE THEY WASN' T GIVING HER NO DOPE.

Q. BY MS. MARSHALL: YOU' RE SAYING THAT OTHER PEOPLE THAT WERE DEALING DRUGS WERE NOT GIVING HER DRUGS. IS THAT WHAT YOU' RE SAYING?

A. YES.

Q. WAS SHE SELLING DRUGS HERSELF?

A. HER, HER SON, HER GRANDMOMMA TOO.

Q. AND YOU MENTIONED THAT DEBRA TOOK THE POLICE AROUND TO YOUR HOUSE?

A. BRUNG THEM TO EVERYBODY HOUSE IN THE NEIGHBORHOOD THAT SHE THOUGHT WAS STILL SELLING DOPE.

Q. WELL, WHY WOULD SHE DO THAT IF SHE WAS SELLING DOPE HERSELF?

A. BECAUSE THEY WERE MESSING UP HER BUSINESS.

Q. OKAY. HAVE YOU SEEN DEBRA LATELY?

A. DEBRA AIN'T BEEN AROUND SINCE THIS HAPPENED. SHE GOT UP OUT THE NEIGHBORHOOD.

MS. MARSHALL: I HAVE NOTHING FURTHER.

THE COURT: MS. MADRID, GO AHEAD.

RECROSS-

EXAMINATION

BY MS. MADRID:

Q. AT THE TIME OF THE MURDER OF MR. HERNANDEZ, WAS MR. BROADNEX SELLING DOPE?

85

A. I DON'T KNOW IF HE WAS OR NOT.

Q. BUT YOU JUST TESTIFIED THAT MS. JOHNSON HAD ANY-

THING AGAINST HIM BECAUSE HE WOULDN'T GIVE HER ANY OF HIS DOPE?

A. I DIDN' T SAY THAT. -

Q. YOU DIDN' T TESTIFY TO THAT JUST TWO MINUTES AGO?

A. I SAID THAT HE WOULDN' T GIVE HER NOTHING. I

DIDN'T SAY HE WOULDN'T GIVE HER NO DOPE. IT MIGHT HAVE BEEN MONEY. AIN'T NO TELLING WHAT IT WAS.

Q. SO YOU DON'T REALLY KNOW WHY DEBRA JOHNSON

SUPPOSEDLY HAD SOMETHING AGAINST MR. BROADNEX THEN. THAT'S WHAT YOU'RE TELLING US?

A. AIN'T NO TELLING. IT MIGHT HAVE BEEN BECAUSE SHE

WOULDN'T GO TO BED WITH HIM BECAUSE SHE WAS CRAZY ABOUT HIM.

Q. NOW, MR. HERNANDEZ YOU SAID YOU THINK CAME TO THE

16 NEIGHBORHOOD TO SELL DOPE; IS THAT CORRECT?
17 A. HE WAS SELLING DOPE. HE WAS SELLING COCAINE AND
18 HEROIN.
19 Q. OKAY. AND MR. HERNANDEZ WASN' T AN EIGHT TRAY -
20 GANG MEMBER, CORRECT?
21 A. NO.
22 Q. BUT HE WAS IN AN EIGHT TRAY NEIGHBORHOOD; ISN'T
23- THAT TRUE?
24 A. YES.
25 Q. AND MR. BROADNEX WAS AN EIGHT TRAY FROM THAT
26 NEIGHBORHOOD, CORRECT?
27 A. YES.
28 Q. DO YOU KNOW IF MR. BROADNEX' S FAMILY SOLD DOPE AT

by
86

1 THAT TIME?
2 A. YEAH. I COULD TELL YOU IF THEY DID.
3 Q. DID THEY?
4 A. NO.

5 MS. MADRID: MAY I HAVE A MOMENT, YOUR HONOR?

6 THE COURT: YEAH. MR. MORISETTE, WHAT DID YOU MEAN

7 WHEN YOU SAID AT THAT TIME YOU WERE THE LEADER AND SHOT

8 COLLAR OF EIGHT TRAY? WHAT DOES THAT MEAN?

9 THE WITNESS: I WAS ONE OF THE KNOWN LEADERS AND SHOT
10 COLLARS. THERE' S A FEW OF US.

11 THE COURT: WHAT DOES THAT MEAN TO BE A LEADER AND A
12 SHOT COLLAR OF EIGHT TRAY?

13 THE WITNESS: THAT MEANS YOU ONE OF THE BIG GUYS.

14 THE COURT: HOW WOULD EIGHT TRAY' S LOOK, FAVORABLY OR

15 UNFAVORABLY, ON SOMEONE TESTIFYING AGAINST ONE OF THEIR GANG
16 MEMBERS CHARGED WITH MURDER?

17 THE WITNESS: UNFAVORABLY.

18 THE COURT: AND WHAT COULD HAPPEN TO THAT PERSON?

19 THE WITNESS: GET TOOK OUT.

20 THE COURT: YOU SAID THAT YOU WERE EMBARRASSED BECAUSE
21 MS. CADE TESTIFIED AGAINST THE DEFENDANT.

22 THE WITNESS: YEAH. 'CAUSE SHE WAS MY GIRL.

23 THE COURT: HOW COME NOTHING HAPPENED TO HER?

24 THE WITNESS: BECAUSE I TRIED TO KEEP IT FROM
25 HAPPENING TO HER.

26 THE COURT: BECAUSE YOU WERE THE SHOT COLLAR.

27 THE WITNESS: YEAH. AND IF I WOULDN'T HAVE HAD SO
28 MUCH RANK, SHE WOULD HAVE GOT TOOK OUT.
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THE COURT: OKAY. MS. MADRID.
Q. BY MS. MADRID: SO IT' S YOUR TESTIMONY TODAY THAT

MS. CADE WAS MORE AFRAID OF THE POLICE THAN SHE WAS OF THE

EIGHT TRAY GANGSTERS THAT SHE SHARED THE NEIGHBORHOOD WITH.

IS THAT YOUR TESTIMONY?

A. YEAH. 'CAUSE SHE HAD ME AROUND.

ISN'T IT TRUE, THOUGH, THAT YOU WENT TO JAIL FOR AND SO YOU WEREN'T AROUND SHORTLY AFTER HER LYING

ON MR. BROADNEX AT THE TRIAL; I SN' T THAT TRUE?
Q.

32 MONTHS
A. YES
Q. SO YOU WEREN' T AROUND - -

A. THAT WAS '96, THOUGH. THAT WAS FOUR, FIVE YEARS
LATER.
Q. BUT WEREN'T THE SAME GANG MEMBERS STILL IN THE NEIGHBORHOOD FOUR OR FIVE OR SIX YEARS LATER?

A. YEAH. BUT EVERYTHING HAD COOLED OFF FOUR, FIVE, SIX YEARS LATER.

Q. SO IS IT YOUR TESTIMONY THEN THAT THEY FORGAVE HER FOR LYING ON MR. BROADNEX?

A. I GUESS SO.

Q. -YOU GUESS SO OR YOU KNOW SO?

A. I KNOW SO.

Q. HOW DO YOU KNOW THAT?

A. 'CAUSE THEY TOLD ME.

Q. THEY TOLD YOU THAT THEY FORGAVE HER FOR LYING ON
MR. BROADNEX?

A.

TO MY GIRL.
YEAH. THEY TOLD ME WASN' T NOTHING GONNA HAPPEN

/02~
88

1 Q. NOW, YOU SAID THAT YOU' VE BEEN MS. CADE' S

2 BOYFRIEND FROM THE TIME -- CERTAINLY FROM THE TIME OF THE

SHOOTING UNTIL TODAY, CORRECT?
A. SINCE 1984.
Q. DO YOU CURRENTLY LIVE WITH MS. CADE?
A. NO.
Q. WHY IS THAT?
A. BECAUSE I DON'T WANT TO RIGHT NOW.
Q. YOU DON' T WANT TO LIVE WITH MS. CADE?
A. NOT RIGHT NOW.
Q. AND WHY IS THAT?
A. BECAUSE I DON' T WANT TO.
Q. WHY?
A. 'CAUSE SHE GETS ON MY NERVES RIGHT NOW. WE GOT A FEW PROBLEMS.
Q. ARE YOU GOING TO BE A DADDY IN A FEW MONTHS?
A. ME?
Q. YES.
A. NO, NOT THAT I KNOW OF. I MIGHT. AIN' T NO TELLING.
Q. DID YOU KNOW THAT MS. CADE IS PREGNANT?
A. I AIN' T NEVER ASK HER. THAT MIGHT BE WHY SHE I S SO IGNORANT RIGHT NOW.
Q. WHEN IS THE LAST TIME YOU SAW MS. CADE AS YOU SIT HERE TODAY?
A. YESTERDAY.
Q. AND YOU' RE TELLING ME THAT YOU DIDN' T KNOW SHE WAS PREGNANT?

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89

A. WELL, SHE MUST BE KEEPING IT UP UNDER THAT COAT.

Q. WHEN YOU - - NOW, FROM THE TIME THAT MS. CADE

LIED, ALLEGEDLY LIED AT THE TRIAL OF MR. BROADNEX TO THE TIME

THAT YOU WENT TO JAIL FOR 32 MONTHS, WERE YOU WITH HER 24
HOURS A DAY?
A. NO. I AIN'T NEVER BEEN WITH HER 24 HOURS A DAY
IN MY LIFE JUST ABOUT.
Q. AND WERE YOU LIVING WITH HER DURING THAT TIME

PERIOD FROM THE TIME SHE LIED AT TRIAL TO THE TIME YOU WENT
TO JAIL? -
A. YEAH.
Q. SHE DIDN' T IRRITATE YOU THEN? -
A. YES.

Q. SHE DID?
A. UP AND DOWN.
Q. AND WERE YOU THE ONLY PERSON IN CHARGE OF THE

EIGHT TRAY GANG AT THE TIME THAT MS. CADE LIED ON
MR. BROADNEX?
A. NO.
Q. HOW MANY OTHER PEOPLE HAD

THE SAME RANK AS YOU AT
21 THAT TIME?
22 A. FIVE OR SIX.
23 Q. AND I BELIEVE YOU
TESTIFIED WHEN THE JUDGE WAS

24 ASKING YOU QUESTIONS THAT ONE OF THE
REASONS WHY THE MOST
25 IMPORTANT THING FOR YOU --
WELL, STRIKE THAT.

26 I BELIEVE YOU TESTIFIED WHEN THE
JUDGE WAS

27 ASKING YOU• QUESTIONS THAT YOU WERE
MORE INTERESTED IN MAKING
28 MONEY.

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90
1 A. YES.
2 Q. AND SO AT THAT TIME YOU
WERE ALSO DEALING DRUGS
3 AT THAT TIME?
4 A. ME, UP AND DOWN.
5 Q. DOES THAT - MEAN FROM
TIME TO TIME?
6 A. YEAH.
7 MS. MADRID: I HAVE
NOTHING FURTHER.
8 THE COURT: MS. MARSHALL.
9 MS. MARSHALL: I HAVE
NOTHING FURTHER.
10 THE COURT: OKAY. MR.
MORISETTE, THANK YOU FOR COMING
11 IN. WE APPRECIATE THAT. YOU CAN
GO AHEAD AND JUST GO OUT IN
12 THE AUDIENCE.

THE WITNESS: ALL RIGHT.
THE COURT: OKAY. ANY OTHER WITNESSES FOR THE DEFENSE?
MS. MARSHALL: NO, YOUR HONOR. BUT I WOULD OFFER THE FACT THAT HIS BROTHER DIED IN 1985 AND I HAVE SEEN THE DEATH CERTIFICATE AND I COULD PRODUCE IT FOR THE COURT. IT WAS IN THE NEWSPAPERS.
THE COURT: WELL, I DON'T KNOW IF YOU' RE OFFERING - -
MS. MARSHALL: I DON'T HAVE IT WITH ME.
THE COURT: I DON'T KNOW IF YOU'RE OFFERING A STIPULATION OR WHAT, BUT THIS IS AN EVIDENTIARY HEARING SO IF YOU WANT TO DO THAT, THEN SHE HAS TO AGREE. IF NOT, MAYBE THERE'S OTHER EVIDENCE YOU CAN PUT ON THAT WOULD INDICATE THAT.
MS. MARSHALL: I DON'T HAVE ANYTHING WITH ME TODAY, BUT I COULD EASILY BUY IT OFF OF LEXUS TO SHOW BY THE DEATH
91
CERTIFICATE THAT HE DIED.
THE COURT: YOU JUST TELL ME WHAT YOU WANT TO DO.
MS. MARSHALL: I WILL SUBMIT -- IS THE COURT GOING TO RULE TODAY? I ASSUME OTHERWISE I WOULD SUBMIT AN EXHIBIT OR TALK WITH MS. MADRID AND SEE IF SHE WILL ACCEPT MY.

REPRESENTATION THAT HE DIED IN '85.

THE COURT: AN I GOING TO RULE FROM THE BENCH TODAY?

NO.

MS. MARSHALL: SO CAN I SUBMIT AN EXHIBIT ESTABLISHING HIS BROTHER DIED IN '85.

THE COURT: WHAT WAS HIS BROTHER'S NAME?

MS. MADRID: KITA.

THE DEFENDANT: N-I-K-I-T-A. NIKITA BROADNEX.

MS. MARSHALL: SO MR. MORISETTE WAS A LITTLE CONFUSED ABOUT THAT.

THE COURT: I DON'T HAVE A PROBLEM SUBMITTING A SUPPLEMENTAL EXHIBIT OR SOMETHING, BUT YOU OUGHT TO SHOW IT TO COUNSEL. SO OKAY. NO MORE LIVE WITNESSES THEN.

(COUNSEL AND HER CLIENT CONFER SOTTO VOCE.)

MS. MARSHALL: MAY I HAVE JUST A MOMENT?

THE COURT: SURE.

(BRIEF PAUSE IN PROCEEDINGS.)

MS. MARSHALL: MR. BROADNEX INDICATED THAT HE WANTED

92

1 TO TESTIFY. HE TESTIFIED AT THE FIRST TRIAL WHICH THIS COURT
2 DIDN'T HEAR.

3 THE COURT: RIGHT. WHAT WOULD HIS TESTIMONY HAVE TO
4 DO WITH WHETHER OR NOT MS. CADE LIED OR DIDN'T LIE?

5 MS. MARSHALL: EXCEPT OF COURSE HE WILL SAY WHERE HE

6 WAS. THAT HE WASN'T THERE. THAT HE DID NOT DO THE MURDER.

7 IT IS OF QUESTIONABLE RELEVANCE FOR A HABEAS HEARING, BUT HE
8 DOES WANT TO DO THAT.

9 THE COURT: BUT THAT WOULDN'T BE NEWLY-DISCOVERED
10 EVIDENCE.

11 MS. MARSHALL: NO.

12 THE COURT: IT'S TRUE I DIDN'T DO THE FIRST TRIAL.

13 ASSUMING HE TESTIFIED AT THE FIRST TRIAL AND SAID I DIDN'T DO
14 IT, I WAS SOMEPLACE ELSE, THAT IS NOT ANY SORT OF

15 NEWLY-DISCOVERED EVIDENCE THAT WOULD BE THE SUBJECT OF THIS
16 HEARING, I DON' T THINK.

17 MS. MARSHALL: I CAN'T THINK OF AN EXCEPTION.

18 THE COURT: THE ISSUE IS -- WELL, THERE ARE A LOT OF

19 ISSUES THAT YOU BRIEFED PREVIOUSLY, BUT I DON'T THINK --

20 MS. MARSHALL: I'M SORRY, YOUR HONOR.

21 THE COURT: GO AHEAD.

22 MS. MARSHALL: HE CAN SAY MS. CADE MUST HAVE LIED.

23 MS. CADE MUST HAVE LIED BECAUSE SHE DID NOT SEE ME SHOOT THIS

24 INDIVIDUAL BECAUSE I DID NOT DO SO. I WAS NOT THERE. FOR

25 WHATEVER THAT'S WORTH, HE IS DEFINITELY PREPARED TO GET ON

26 THE STAND AND SAY THAT. I MEAN, TO SOME EXTENT I SUPPOSE IT

27 CORROBORATES HER TESTIMONY THAT SHE LIED.

28 THE COURT: WHAT IS YOUR OPINION?

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93

1 MS. MADRID: WELL, YOUR HONOR, I'M SOMEWHAT SURPRISED

2 THAT MR. BROADNEX WOULD FRANKLY WANT TO TAKE THE STAND
3 BECAUSE ESSENTIALLY WHAT HE IS SAYING --

4 THE WITNESS: THIS IS MY LIFE.

5 MS. MADRID: I 'N SORRY?

6 THE WITNESS: THIS IS MY LIFE.

7 MS. MARSHALL: LET HER FINISH.

8 THE COURT: MR. BROADNEX, I AN NOT ASKING YOU ANY

9 QUESTIONS SO DON'T INTERRUPT THE D . A. AND DON'T ASK HIM
10 QUESTIONS.

11 GO AHEAD.

12 MS. MADRID: ESSENTIALLY THE NATURE OF THE HEARING IS

13 WHETHER OR NOT THE COURT FINDS THE RECANTED STATEMENTS -- IN

14 OTHER WORDS, MS. CADE TAKING BACK HER TRIAL TESTIMONY AND

15 MR. MORISETTE BACKING THAT UP, WHETHER THE COURT FINDS THAT

16 CREDIBLE AND WHETHER MR. BROADNEX WOULD THEN BE ENTITLED TO A

17 NEW TRIAL. I THINK THAT ALL OF US HERE

ASSUME THAT

18 MR. BROADNEX IS BRINGING THIS MOTION BECAUSE HE IS CLAIMING

19 HE DIDN' T DO IT. IF HE WANTS TO TAKE THE STAND - -

20 THE COURT: WELL, I GUESS MY PROBLEM, MS. MARSHALL, IS

23. YOU PREPARED A LOT OF PAPERWORK GOING BACK TO LAST YEAR.

22 BOTH OF YOU HAVE DONE A REAL GOOD JOB IN. ALL THE WORK. THAT

23 IS ONE OF THE REASONS WE ARE HERE IS BECAUSE AFTER WHAT YOU

24 BOTH OFFERED AND THE ANALYSIS THAT YOU HAVE PROVIDED SO FAR.

25 BUT NOWHERE IN ANY OF THE PAPERWORK HAS IT ANYTHING TO DO

26 WITH BRINGING UP TESTIMONY OF YOUR CLIENT WHO APPARENTLY

27 TESTIFIED BEFORE AS TO A BASIS OF ANYTHING.

28 I JUST AM HAVING A LITTLE TROUBLE INDICATING

94

1 WHETHER THAT HAS ANYTHING TO DO WITH THE SCOPE OF THE

2 HEARING. THE SCOPE OF THE HEARING IS TO PUT ON EVIDENCE TO

SUPPORT THE RECANTATION, THE CIRCUMSTANCES OF IT AND I ASSUME MY OPINION AS TO IT AND THEN BASED ON MY OPINION OF IT, WHAT LEGALLY WE SHOULD DO. BUT I DON' T KNOW THAT THAT' S WITHIN THE SCOPE OF THE HEARING SO THE REQUEST IS DENIED. THAT' S A LONG-WINDED WAY TO SAY IT'S NOT WITHIN THE SCOPE OF THE HEARING.

MS. MARSHALL: THANK YOU, YOUR HONOR.

THE COURT: SO OTHER WITNESSES THAT ARE WITHIN THE SCOPE OF THE HEARING?

MS. MARSHALL: NO. I HAVE NO OTHER WITNESSES.

THE COURT: DO THE PEOPLE HAVE ANY WITNESSES?

MS. MADRID: AT THIS TIME, YOUR HONOR, THE PEOPLE WOULD LIKE TO CALL MS. MARRY MILLS SINCE SHE IS IN THE COURTROOM.

THE COURT: OKAY. THAT' S THE MOM.

MS. MADRID: THAT' S MR. BROADNEX' S MOTHER.

THE COURT: OKAY. ALL RIGHT. MS. MILLS, PLEASE RAISE YOUR RIGHT HAND.

MARRY MILLS, CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND TESTIFIED - AS FOLLOWS:

25
26 THE CLERK: YOU DO SOLEMNLY STATE THAT THE TESTIMONY
27 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL
28 BE THE **TRTJTH,** THE WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO

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95
1 HELP YOU GOD.
2 THE WITNESS: I DO.
3 THE CLERK: MA'AM, WOULD YOU PLEASE STATE AND SPELL
4 YOUR FULL NAME FOR THE RECORD SLOWLY.
5 THE WITNESS: MARRY MILLS, M-A-R--R-Y, MILLS,
6 M-I-L-L-S.
7 THE COURT: THANK YOU, MA'AN. PLEASE GO AHEAD.
8
9 DIRECT EXAMINATION
10
11 BY MS. MADRID: -
12 Q. MS. MILLS, YOU'RE THE MOTHER OF THE PETITIONER IN
13 THIS CASE, MR. BROADNEX; IS THAT CORRECT? -
14 A. YES, I AM.
15 Q. AND MS. MILLS, YOU KNOW THE GENTLEMAN WHO JUST
16 TESTIFIED, MR. MORISETTE, CORRECT?
17 A. YEAH. I KNOW HIM BUT WHEN HE WAS SMALL, YOU
18 KNOW. MATTER OF FACT, IT JUST

DAWNED ON ME LAST WEEK ABOUT
19 REALLY WHO HE WERE, YOU KNOW, BECAUSE HE WAS SMALL, YOU KNOW,
20 AND MY KIDS. BUT IF ANYBODY ASKED ME ABOUT HIM NOW, I REALLY
21 COULDN'T TELL YOU ANYTHING ABOUT HIM, YOU KNOW, SINCE HE HAS
22 GROWN UP.
23 Q. WELL, YOU HEARD MR. MORISETTE TESTIFY JUST NOW
24 BECAUSE YOU WERE SITTING IN THE COURTROOM, CORRECT?
25 A. UH-HUH.
26 Q. IS THAT A "YES[11]? YOU HAVE TO SAY "YES" FOR THE
27 REPORTER.
28 A. YES. I'M SORRY.

96 -1
1 Q. AND YOU HEARD MR. MORISETTE SAY THAT HE ALSO KNEW
2 YOUR OTHER SON, NIKITA BROADNEX, WHO WAS SHOT AND KILLED,
3 CORRECT?
4 A. YES.
5 Q. AND ISN' T IT TRUE THAT MR. MORI SETTE AS HE
6 TESTIFIED USED TO GO OVER TO HELP NIKITA WORK ON HIS LOW
7 RIDER? -
8 A. YES.
9 Q. AND AT THAT TIME HE WOULD GO TO YOUR HOUSE TO
10 WORK ON THAT LOW RIDER; I SN' T THAT TRUE?
11 A. YES.
12 Q. AND AT THAT POINT IN TIME NIKITA WAS OLD ENOUGH

TO BE DRIVING; ISN'T THAT TRUE?
A. YES.
Q. AND I PRESUME THAT AT THAT TIME MR. MORISETTE WAS
ALSO A MAN OLD ENOUGH TO BE DRIVING, CORRECT?
A. YES.
Q. SO YOU WERE ACTUALLY SEEING MR. MORI SETTE AT THAT
TIME AFTER HE WAS AN ADULT; ISN' T THAT TRUE?
A. - WELL, YES. UH- HUH.
Q. IS THAT A "YES"?
A. YES.
Q. AND YOU ALSO -- WELL, LET ME ASK YOU THIS:
MR. MORISETTE WAS A FRIEND OF YOUR SON, MR. BROADNEX?
A. YES.
MS. MARSHALL: EXCUSE ME. VAGUE, WHICH MR. BROADNEX?
MS. MADRID: I'LL CLARIFY THAT. THAT'S FINE.
Q. BY MS. MADRID: MR. BROADNEX, THE PETITIONER WHO

I/I
97

IS SITTING HERE IN COURT.
A. YES.
Q. AND WERE YOU AWARE THAT AT THE TIME OF THE
SHOOTING - -

THE COURT: I 'M SORRY I WON' T INTERRUPT. ASK THE

WHOLE QUESTION.

Q. BY MS. MADRID: AT THE TIME OF THE SHOOTING OF

THE VICTIM IN THIS CASE, MR. HERNANDEZ, THAT YOUR SON, THE

PETITIONER, MR. BROADNEX, WAS A MEMBER OF THE EIGHT TRAY SET?

A. YOU KNOW, THIS GANG STUFF - - IF HE WAS IN A GANG,

I DIDN' T KNOW NOTHING ABOUT IT. OUT IN THE STREET THAT' S

DIFFERENT BUT AT MY HOME, NO.

Q. AND DID YOU KNOW WHETHER OR NOT MR. MORISETTE,

THE GENTLEMAN WHO WAS JUST TESTIFYING, WAS AN EIGHT TRAY GANG

MEMBER AT THAT TIME?

A. I HEAR ABOUT THESE NAMES BUT I REALLY DON'T KNOW

EIGHT TRAY FROM - - YOU KNOW, I JUST HEAR ABOUT THESE NAMES.

I'M NOT FAMILIAR WITH THIS STUFF.

Q. WHERE DID YOU LIVE AT THE TIME THAT MR. BROADNEX,

YOUR SON, THE PETITIONER IN COURT, WAS ARRESTED FOR THE
SHOOTING OF MR. HERNANDEZ, THE VICTIM IN THIS CASE?

A. 204 WEST 118TH PLACE.

Q. AND WHERE DO YOU LIVE NOW?

A. 204 WEST 118TH PLACE.

25 Q. SO YOU HAVE LIVED IN THE SAME HOUSE ESSENTIALLY
26 FOR THE LAST TEN YEARS?
27 A. OH, MORE. LONGER.
28 Q. AND 'WHEN WAS THE LAST TIME BEFORE TODAY THAT YOU
98

---

1 SAW MR. MORISETTE?
2 A. SATURDAY. I SEEN HIM SATURDAY.
3 Q. AND PRIOR TO SATURDAY, THIS PAST SATURDAY, WHEN
4 WAS THE LAST TIME YOU SAW HIM?
5 A. I HAVEN'T SEEN HIM.
6 Q. WELL, THE QUESTION IS: PRIOR TO THIS PAST
7 SATURDAY, WHEN DID YOU LAST SEE HIM?
8 A. JUST THIS MORNING.
9 Q. OKAY. I'M GOING BACK IN TIME. SO LET'S START

10 AGAIN. FROM THIS PAST SATURDAY WHICH YOU JUST TESTIFIED YOU
11 SAW MR. MORISETTE - - CORRECT?
12 A. UH-HUH.
13 Q. IS THAT A "YES"?
14 A. YES.
15 Q. FROM THIS PAST SATURDAY BACK IN TIME WHEN WAS THE

16 LAST TIME PRIOR TO THAT SATURDAY THAT YOU SAW MR. MORISETTE?
17 A. OH, I HAVEN'T --

18 MS. THERESA BROADNEX: SHE DOESN'T REMEMBER.

19 THE COURT: WAIT A SECOND. MA'AM, YOU'RE EXCUSED.

20 PLEASE GO OUTSIDE. SOMEBODY IN THE AUDIENCE WAS JUST TELLING

21 HER WHAT TO SAY. I DON' T EVEN KNOW THAT YOU HEARD IT.

22 THE WITNESS: I DIDN'T HEAR IT.

23 MS. MADRID: MAY I ASK MS. MILLS WHO THAT WOMAN IS WHO

24 IS LEAVING THE COURTROOM?

25 THE WITNESS: THAT IS MY DAUGHTER.

26 MS. MADRID: AND WHAT IS HER NAME?

27 THE WITNESS: THERESA.

28 THE COURT: ALL RIGHT. GO AHEAD-
99

1 THE WITNESS: I DIDN'T HEAR ANYTHING.

2 THE COURT: WHY DON' T YOU ASK THE QUESTION. READ THE

3 QUESTION. IN FACT, LET ME ASK IT. YOU SAW MR. MORISETTE

4 LAST SATURDAY, RIGHT?

5 THE WITNESS: RIGHT.

6 THE COURT: BEFORE LAST SATURDAY, HOW

LONG WAS IT
BEFORE YOU SAW HIM?

THE WITNESS: OH, I DON'T KNOW. I DON'T KNOW WHETHER
IT WAS DURING THE TIME MY SON GOT KILLED.

THE COURT: WAS IT YEARS AND YEARS?

THE WITNESS: OH, YES, YES, YES.

THE COURT: GO AHEAD.
Q. BY MS. MADRID: DO YOU KNOW WHERE MR. MORISETTE
LIVES AS YOU SIT HERE TODAY?
A. I KNOW - - I DON' T KNOW - - I 'M NOT GOOD AT

STREETS. I JUST KNOW HOW TO GET TO PLACES. YEAH. I KNOW

WHERE HE USED TO LIVE, IF HE STILL LIVES THERE, BECAUSE LIKE
I SAID I HAVEN'T BEEN OVER THERE. I DON'T KNOW.
Q. SO AT THE TIME THAT MR. MORISETTE WAS WORKING ON

THE LOW RIDER WITH YOUR DECEASED SON, NIKITA, DID YOU KNOW
WHERE MR. MORISETTE LIVED?
A. YES.
Q. AND AT THE TIME OF THE SHOOTING OF MR. HERNANDEZ,

THE MURDER FOR WHICH YOUR SON STANDS CONVICTED, DID YOU KNOW

25 WHERE MR. MORISETTE LIVED?
26 A. YES.
27 Q. AND DID HE LIVE IN THE SAME PLACE?
28 A. I ASSUME.

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100

1 Q. YOU ASSUME SO?

2 A. YEAH. I ASSUME. I DON'T GO OVER THERE SO I

3 DON'T KNOW. I ASSUME THAT HE IS STILL LIVING IN THE SAME

4 PLACE.

5 Q. AND DID YOU KNOW AT THE TIME OF THE SHOOTING THAT

6 MR. MORISETTE LIVED WITH MS. CADE?

7 A. NO. I DON' T KNOW WHO HE LIVED WITH. ALL I KNEW -

8 HIS PARENTS LIVED ON THAT STREET. I DON' T KNOW NOTHING ABOUT

9 NO CAGE.
10 Q. NO. CADE, C-A-D-E.
11 A. OH, I DON'T KNOW ANYTHING ABOUT NOTHING LIKE THAT

12 NAME. -
13 Q. WERE YOU IN COURT LAST

FRIDAY?
14 A. YES.
15 Q. AND DID YOU WATCH THE TESTIMONY LAST FRIDAY?
16 A. YES.
17 Q. AND YOU HEARD A WOMAN BY THE NAME OF MS. CADE
18 TESTIFYING?
19 A. I HEAR YOU TALKING ABOUT THIS NAME, BUT I DON'T
20 KNOW HER.
21 Q. OKAY. WELL THE QUESTION IS: YOU HEARD HER
22 TESTIFY LAST FRIDAY, CORRECT?
23 A. OH, ARE YOU TALKING ABOUT -- SEE, I DON'T KNOW

24 ABOUT THAT NAME. ALL I KNOW IS DAPHNE. IS THAT WHO YOU ARE
25 TALKING ABOUT?
26 Q. YES.
27 - A. THAT' S ALL I KNOW. THAT' S ALL I KNOW.
28 Q. DID YOU DRIVE IN THE CAR -- DID YOU TRAVEL IN TEE -
101
1 SAME VEHICLE AS MS. DAPHNE CADE TO COME TO COURT?
2 A. NO.
3 Q. DID YOU EVER TALE TO MS. DAPHNE CADE PRIOR TO HER
4 TESTIFYING IN COURT LAST FRIDAY?
5 A. NO.
6 Q. DID YOU TALK TO YOUR DAUGHTER WHO JUST WAS
7 ORDERED OUT OF THE COURTROOM, TRACY OR THERESA --

A. THERESA.
Q. DID YOU TALK TO HER ABOUT DAPHNE CADE AND HER
ALLEGED LIES ABOUT YOUR SON BEFORE LAS.T FRIDAY?
A. WELL, WE'VE ALWAYS TALKED ABOUT IT, YOU KNOW.

WE' VE ALWAYS TALKED ABOUT IT, MENTIONED HER NAME BUT WE DON' T

KNOW DAPHNE PER SE. WE DON'T TALK TO HER, VISIT HER OR SEE
HER, NOTHING LIKE THAT.
Q. DID YOU KNOW THAT SHE LIVED AROUND THE

NEIGHBORHOOD AROUND THE AREA OF THE SHOOTING WHICH WAS 84TH
PLACE?
A. WELL, I KNOW SHE IS ALWAYS OVER IN THAT AREA, YOU
KNOW. I KNOW THAT' S WHERE THEY BE.
Q. AND YOU NEVER TRIED TO FIND HER?
A. OH, NO.
Q. YOU NEVER TRIED TO FIND DAPHNE CADE, THE WOMAN

WHO LIED ABOUT WHETHER OR NOT YOUR SON COMMITTED MURDER?
A. NO.
Q. THAT WASN' T IMPORTANT TO YOU TO TRY AND FIND HER?
A. YES. IT WAS IMPORTANT TO ME. DAPHNE IS

27 SOMETHING YOU CAN'T DO NOTHING ABOUT. WHEN MY SON GOT
28 KILLED - -

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JU2
1 Q. THAT IS NOT THE QUESTION. THE QUESTION IS: IT

2 WASN'T IMPORTANT FOR YOU TO LOOK FOR MS. DAPHNE CADE WHO YOU
3 KNEW WHO WAS IN THE AREA OF 84TH PLACE AFTER YOU FOUND OUT
4 THAT SHE LIED ABOUT MR. BROADNEX KILLING SOMEONE?
5 A. NO. I NEVER LOOKED FOR DAPHNE.
6 Q. THAT WASN'T IMPORTANT TO YOU?
7 A. YES. IT'S IMPORTANT, BUT I NEVER LOOKED FOR HER.
8 Q. BUT YOU KNEW, AS YOU JUST TESTIFIED, THAT SHE
9 LIVED IN THE AREA OF 84TH PLACE?
10 A. YES.
11 Q. WHEN DID YOU FIRST F IND OUT THAT MS. DAPHNE CADE
12 ALLEGEDLY LIED ABOUT MR. BROADNEX SHOOTING MR. HERNANDEZ?
13 A. OH, I GUESS I FOUND OUT - - I HEARD ABOUT IT ABOUT
14 FIVE, SIX MONTHS AGO.
15 Q. WAS THAT THE FIRST TIME YOU HEARD ABOUT IT?
16 A. YES.
17 Q. DO YOU KNOW ANYBODY ELSE WHO LIVES IN THAT

NEIGHBORHOOD, 84TH PLACE?
A. NO.
Q. YOU'RE SHAKING YOUR HEAD. IS THAT "NO"?
A. NO. NO. NO.
Q. DID YOU TALK TO YOUR DAUGHTER THERESA ABOUT
WHETHER OR NOT DAPHNE CADE SAID SHE LIED ABOUT MR. BROADNEX
SHOOTING MR. HERNANDEZ?
A. MY FAMILY AND I TALK ABOUT IT. WE JUST PRAY TO
GOD. WE DON' T KNOW WHETHER HE DID IT OR NOT. WE WASN' T
THERE. YOU KNOW, HE SAY HE DIDN'T DO IT, SO WE JUST PRAY AND

JUST BELIEVE IN PRAYER. OTHER THAN THAT, I HAVEN'T BEEN

1/7

LOOKING FOR ANYBODY, ASKING ANYBODY ANYTHING.
Q. ISN'T IT TRUE THAT GOD HELPS THOSE WHO HELP
THEMSELVES?
A. MOST DEFINITELY.

THE COURT: WELL, WE ARE NOT --

THE WITNESS: MOST DEFINITELY.

THE COURT: WE ARE NOT GOING TO GET INTO A RELIGIOUS
DISCUSSION HERE.

THE WITNESS: MOST DEFINITELY.

THE COURT: SO ASK ANOTHER QUESTION.

Q. BY MS. MADRID: HOW IS IT THAT YOUR FAMILY CONTACTED DAPHNE CADE?

A. HOW IS IT? MY FAMILY DIDN'T CONTACT DAPHNE.

Q. WHO CONTACTED DAPHNE?

A. I THINK MY DAUGHTER-IN-LAW AND MY DAUGHTER WAS DRIVING OR SOMETHING ON VERMONT AND THEY SEEN DAPHNE. WE DIDN'T CONTACT ANYBODY. WE DIDN'T CONTACT ANYBODY.

Q. WELL, WHEN YOUR DAUGHTER AND YOUR SISTER-IN-LAW SAW DAPHNE, DID THEY TELL YOU THAT THEY STOPPED AND TALKED TO HER?

A. YES, THEY DID.

Q. AND DID THEY TELL YOU THAT THEY SAW DAPHNE CADE IN THE AREA OF 84TH STREET AND VERMONT?

A. YES.

Q. AND I SN' T IT TRUE THAT YOU JUST TESTIFIED THAT YOU KNEW THAT DAPHNE CADE FREQUENTED THAT AREA FOR YEARS?

A. CAN I SAY SOMETHING?

Q. NO. MA'AM, ANSWER THE QUESTION

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THE COURT: WELL, SHE HAS ALREADY TESTIFIED THAT THE ANSWER WAS YES, SO ASK ANOTHER QUESTION.

Q. BY MS. MADRID: WHEN DID YOU FIRST -- I MAY HAVE ASKED THIS AND I CAN'T RECALL. WHEN DID YOU FIRST FIND OUT, PERSONALLY YOU FIND OUT THAT DAPHNE CADE SAID THAT SHE LIED AT TRIAL?

A. WHEN I F I RST FOUND OUT ABOUT IT IS WHEN MY DAUGHTER - IN- LAW TOLD ME. THEN THAT' S WHEN WE GOT BUSY AND STARTED GETTING AN ATTORNEY TO LOOK INTO THIS AND SEE WAS THIS TRUE. I ASKED MY SON ONCE, ONLY ONCE DID HE DO THIS? HE TOLD ME NO. AND I NEVER ASKED AGAIN, NEVER.

MS. MADRID: MAY I HAVE A MOMENT, YOUR HONOR?

(BRIEF PAUSE IN PROCEEDINGS.)

MS. MADRID: I HAVE NOTHING FURTHER.

THE COURT: WHY DON'T YOU ASK ABOUT NIKITA.

MS. MARSHALL: YES. THANK YOU. I WAS GOING TO DO THAT.

CROSS-EXAMINATION

22

23 BY MS. MARSHALL:

24 Q. WHEN WAS YOUR SON NIKITA KILLED?

25 A. YOU KNOW, I' M NOT GOOD AT DATES AND I 'M NERVOUS.

26 AND I'M NOT REALLY GOOD AT DATES. I JUST TRIED TO BLOCK THIS

27 OUT OF MY MIND AND LIVE.

28 Q. LET ME TRY TO HELP YOU. DO YOU REMEMBER IF IT

105

1 WAS BEFORE MR. BROADNEX WENT TO JAIL?

2 A. YES. - IT WAS BEFORE.

3 Q. WAS IT QUITE AWAYS WAYS BEFORE?

4 A. QUITE AWAYS WAYS BECAUSE I REMEMBER I HAD TO GO

5 UP AND TELL HIM. YES. UH-HUH.

6 Q. YOU HAD TO GO UP AND TELL HIM WHERE?

7 A. TO PRISON.

8 Q. HE WAS IN PRISON ON SOMETHING ELSE AT THE TIME

9 THAT HIS BROTHER WAS KILLED?

10 A. YES.

11 MS. MARSHALL: ALL RIGHT. I HAVE NOTHING FURTHER.

12 THE COURT: I'M NOT SURE THAT ANSWERS THE QUESTION SO

13 YOU MAY STILL WANT TO FOLLOW UP.

14 MS. MARSHALL: OKAY.

L 15 THE COURT: YOU'VE LIVED AT 204

WEST 118TH STREET FOR
20 YEARS?
THE WITNESS: YES, OR LONGER, YES.
THE COURT: ANYTHING ELSE?
MS. MADRID: YES.

REDIRECT EXAMINATION

BY MS. MADRID:
Q. WHAT WAS MR. BROADNEX IN JAIL FOR WHEN YOUR SON
KITA WAS KILLED?
A. WHEN ROBERT WAS IN JAIL, DO YOU KNOW WHAT? GOD
KNOWS. I REALLY DON' T KNOW. I KNOW HE DID FIVE YEARS.
REALLY DON' T KNOW, HONEST TO GOD.

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Q. BY MS. MARSHALL: HE WAS IN STATE PRISON --
A. YES.
Q. - - WHEN YOUR OTHER SON WAS KILLED?
A. RIGHT.
MS. MADRID: YOUR HONOR, EXCUSE ME. I DON'T THINK I
WAS--
MS. MARSHALL: I'M SORRY.
THE COURT: FINISHED?
MS. MADRID: NOT QUITE.
MS. MARSHALL: I DO APOLOGIZE.
Q. BY MS. MADRID: WHAT WAS MR. BROADNEX, THE
PETITIONER, YOUR SON WHO IS HERE IN COURT -- WHAT WAS HIS

NICKNAME ON THE STREET, IF YOU KNOW?

A. MY SON?

Q. YEAH.

A. ALL I KNOW IS LUCKY.

MS. MADRID: I HAVE NOTHING FURTHER.

THE COURT: ANYTHING ELSE?

MS. MARSHALL: NO. NOTHING FURTHER.

THE COURT: OKAY. MS. MILLS, THANKS. YOU'RE EXCUSED.

THE WITNESS: OKAY.

THE COURT: ANY OTHER WITNESSES - -

MS. MADRID: NO, YOUR HONOR.

THE COURT: -- BY THE PEOPLE?

MS. MADRID: NO.

(PROCEEDINGS CONCLUDED)

Supreme Court, U.S.
FILED

06-321 JUL 18 2006

OFFICE OF THE CLERK

SUPREME COURT OF THE UNITED STATES

ROBERT LEE BROADNEX
PETITIONER

VERSUS

STATE OF CALIFORNIA
RESPONDENTS

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF CALIFORNIA

Exhibits to Petition part 2
Pages 172-307

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EXHIBIT E

TRIAL TESTIMONY OF DAPHNE CADE

ARE EXCUSED. THANK YOU, SIR. THANK YOU, SIR.
YOUR NEXT WITNESS IS?
MR. BROUCHAM: DAPHNE CADE, YOUR HONOR.

CALLED AS A WITNESS ON BEHALF OF THE PEOPLE, HAVING
FIRST BEEN DULY SWORN, WAS EXAMINED AND TESTIFIED AS.
FOLLOWS:
THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE
TESTIMONY YOU MAY GIVE IN THE CAUSE NOW PENDING
BEFORE THIS COURT SHALL BE THE TRUTH, THE WHOLE
TRUTH, AND NOTHING BUT THE TRUTH, SO HELP YOUGOD?
THE WITNESS: YES, I DO.
THE CLERK: BE SEATED.
STATE YOUR NAME, PLEASE.
THE WITNESS: DAPHNE RENEE CADE.
D-A-P-H-N-E. R-E-N-E--E. C-A-D--E.

DIRECT EXAMINATION
BY MR. BROUGHAM:
Q GOOD AFTERNOON, MISS CADE.
A AFTERNOON.
Q I WANT You TO THINK BACK TO THE EARLY
MORNING HOURS .OF AUGUST 18 OF LAST YEAR.

25 DO YOU REMEMBER BEING ON 84TH PLACE IN LOS
26 ANGELES AT THE TIME?
27 A YES, I DO.
28 Q AND WERE YOU AT THE TIME RESIDING AT 1110

464
1 WEST 84THTH PLACE?
2 A YES.
3Q WHERE SPECIFICALLY ARE YOU RESIDING? IN
4 THE HOUSE OR THE TRAILER?
5 A THE TRAILER.
6 Q AND WERE YOU RESIDING THERE WITH SOMEONE
7 BY THE NAME OF DEBRA JOHNSON?
8 A YES.
9 Q IS SHE THE PERSON WHO HAS BEEN TESTIFYING
10 IN COURT TODAY?
11 A YES.
12 Q SHE'S A FRIEND OF YOURS?
13 A YES.
14 Q GOOD FRIEND OF YOURS?
15 A YES.
16 Q AND DID YOU OBSERVE A SHOOTING TAKE PLACE
17 DURING THE EARLY MORNING HOURS NEAR THAT HOUSE ON
18 AUGUST 18TH?
19 A YES.
20 Q DID YOU KNOW THE V- TIM?
21 A YES.
22 Q DID YOU KNOW THE SHOOTER?
23 A YES.
24 Q DO YOU SEE THE SHOOTER IN COURT

TODAY?
A YES.
Q WOULD YOU PLEASE POINT TO THE SHOOTER AND
TELL ME WHAT HE OR SHE IS WEARING?
A EXCUSE ME.

Q POINT TO THE SHOOTER IN COURT TODAY AND
TELL ME WHAT HE'S WEARING?
A HE IS OVER HERE AND HE HAS A BLACK AND
WHITE SUIT.
Q WHEN YOU SAY "BLACK AND WHITE SUIT," ARE
YOU TALKING ABOUT A BLACK SHIRT AND
A BLACK SHIRT, WHITE JACKET.
THE COURT: THAT DESCRIBES MR. BROADNEX.
MR. BROUGHAM: THANK YOU.
Q AND WHERE~WERE YOU WHEN YOU SAW-- STRIKE
~THAT.
WHO, IF ANYONE, WERE YOU WITH AT THE TIME
BEFORE THE SHOOTING BEGAN?
A WHO WAS I STANDING WITH?
Q RIGHT.
MICHAEL GOOD AND DEMPSEY
AND WHERE IN RELATIONSHIP TO THE HOUSE TO
DEBRA'S HOUSE WERE YOU?
A ABOUT UP BY THE TREE.

Q TREE IN FRONT OF A NEIGHBOR'S HOUSE?
~ A TREE IN FRONT OF A NEIGHBOR'S

HOUSE.
Q AND YOU WERE WITH DEMPSEY AND MICHAEL GOOD AT THE TIME? . . ...
Q WHAT WERE YOU DOING AT THE TIME?
A TALKING.
Q OKAY.

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AND WHAT NAME DID YOU KNOW THE DEFENDANT
BY, IF ANY? YOU UNDERSTAND WHEN I USE THE WORD
"DEFENDANT" I AM TALKING ABOUT THE PERSON THAT YOU
IDENTIFIED AS THE SHOOTER?
A YES.
Q CAN YOU REMEMBER THAT?
A YES.
Q OKAY.
NOW, WHAT NAME DO YOU KNOW THIS MAN BY?
A FELLA
Q FELLOW-? DO YOU KNOW --IS HE ALSO KNOWN
BY ANOTHER NAME?
A LUCKY. S
Q YOU PERSONALLY KNEW HIM BY FELLOW OR LUCKY
OR BOTH?
A. BOTH.
Q AND WHERE WAS LUCKY WHEN YOU FIRST SAW' HIM
THAT MORNING?
A HE WAS COMING DOWN THE STREET.
Q WITH ANYBODY?
A ROBERTO, YES.
Q ROBERTO, IS HE THE GUY THAT GOT

SHOT?
A YES.
Q DO YOU KNOW HIM ALSO?
A YES.
Q WERE YOU FAMILIAR WITH BOTH OF THEM?
A YEAH.
Q AND WHAT -- WHERE WERE THEY COMING FROM?

A REDBONE'S HOUSE.
Q AND WHERE IS REDBONE'S HOUSE?IS IT ON
THE SAME STREET?
A YES.
Q IS IT ON THE SAME SIDE OF THE STREET AS
DEBRA'S OR ANOTHER SIDE?
A OTHER SIDE.
Q OKAY.
AND THEY WERE WALKING TOGETHER?
A YES.
Q AND WHEN THEY WERE TALKING WERE THEY
WALKING TOWARDS WHERE YOU WERE OR WERE THEY WALKING
AWAY FROM WHERE WERE YOU?
A TOWARDS WHERE I WAS.
Q AND YOU WERE NEAR DEBRA'S HOUSE AT THE TIME?,
A YES
Q AND AS THE 2 OF THEM WERE WALKING TOWARDS
YOU COULD YOU TELL WHETHER OR NOT THEY WERE TALKING

TO EACH OTHER?
A YEAH.
Q AND COULD YOU TELL WHAT THEY WERE SAYING
AT THAT POINT?
A NO.
Q YOU COULD HEAR THAT THEY WERE TALKING?
A YES.
Q COULD YOU TELL WHETHER THEY WERE TALKING
AS OPPOSED TO, SAY, ARGUING?

A YES.
Q WHEN YOU SAY "YES," WERE THEY TALKING OR
ARGUING?
A SEEM LIKE AN ARGUMENT TO ME.
Q WHEN YOU SAY SEEMS LIKE AN ARGUMENT, WAS
EITHER LUCKY OR ROBERTO USING A LOUD TONE OF VOICE?
A FELLA WAS KIND OF.
Q FELLOW; WE ARE TALKING ABOUT LUCKY?
A YES.
Q THIS IS FELLOW IN COURT TODAY?
A YES.
Q YOU ARE SURE OF THAT?
A YES.
Q AND YOU SAY HE WAS KIND OF USING A LOUD
TONE OF VOICE?
A YES.
Q •BUT ANOTHER GUY ROBERTO WASN'T?
A NO.
Q BUT YOU COULDN'T HEAR EXACTLY WHAT THEY
WERE SAYING?
A NO.
Q DID THEY AT SOME POINT STOP IN FRONT OF
DEBRA'S HOUSE OR NEAR DEBRA'S HOUSE AND CONTINUE
TALKING?
A YES.
Q THEY CONTINUED TALKING TO EACH OTHER?

27 A YES,.
28 Q AND AT THAT POINT DID FELLOW
STILL HAVE

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1 KIND OF A LOUD TONE OF VOICE?
2 A YES.
3 THE COURT: I SHOULD TELL YOU,
MISS CADE,
4 THAT WHEN THERE'S AN OBJECTION,
DON'T ANSWER THE
5 QUESTION, LET ME RULE ON THE
OBJECTION AND THEN I
6 WILL LET YOU KNOW WHETHER YOU CAN
ANSWER IT OR NOT.
7 THE WITNESS: OKAY.
8 THE COURT: ALL RIGHT.
9 Q BY MR. BROUGHAM: WHILE ALL THIS
WAS GOING
10 ON, WERE YOU STILL' STANDING NEAR
THAT TREE?
11 MR. PATTON: OBJECTION THIS IS
LEADING.
12 THE COURT: OBJECTION IS SUSTAINED.
13 Q BY MR. BROUGHAM: WHAT WERE YOU
DOING
14 WHILE THIS WAS, GOING ON?,
HAD YOU MOVED OR WERE YOU STILL
16 UNDER THE TREE
17 A STILL STANDING UNDER THE TREE
18 Q AND WHO ELSE WAS OUTSIDE IN THE
GENERAL
19 AREA BESIDES LUCKY, ROBERT,
YOURSELF, DEMPSEY AND
20 ROBERT GOOD? EXCUSE ME; MICHAEL
GOOD?

A WHO ELSE?
Q RIGHT.
A NOBODY.
Q NOW, DID YOU AT ANY POINT BEFORE THE SHOOTING, JUST BEFORE THE SHOOTING, SEE DEBRA?
A YES.
Q WHERE DID YOU SEE HER AT/
A ON HER PORCH.

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Q~ DID YOU SEE HER COME OEF THE PORCH FOR A COUPLE MINUTES
A. YES
Q AFTER SHE CAME OFF, SPENT A COUPLE MINUTES OFF THE PORCH, DID YOU SEE HER GO INTO THE HOUSE?
A YES.
Q DID THE SHOOTING TAKE PLACE BEFORE SHE WENT INTO THE HOUSE OR AFTER SHE WENT IN THE HOUSE?
A AFTER.
Q DID SHE GO WITH ANYBODY IN THE HOUSE?
A HER SON.
Q WHAT'S HER SON'S NAME?
A MICHAEL FERGUSON.
Q SO AT THE TIME OF THE SHOOTING, THE PEOPLE'; THAT WOULD HAVE BEEN OUTSIDE WOULD HAVE BEEN LUCKY, ROBERTO, YOURSELF. ,DEMPSEY, MICHAEL GOOD AND ANYBODY ELSE?
A NO

19 JUST THOSE 5, TO THE BEST OF YOUR MEMORY?
20 A YES.
21 Q NOW; HOW DID THE -- 'WHEN IS THE FIRST
22 TIME YOU SAW A GUN? STRIKE THAT.
23 LET ME ASK YOU ANOTHER QUESTION.
24 YOU SAID SOME POINT THEY CONTINUED
25 TALKING. DID SOMETHING HAPPEN? DID A SHOOTING
26 HAPPEN AFTER THEY WERE TALKING FOR A FEW MINUTES.
27 MR. PATTON:; THIS IS VERY LEADING.
28 THE COURT: OBJECTION IS SUSTAINED.

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1 WHY DON'T YOU TRY NOT TO ASK LEADING
2 QUESTIONS.
3 MR. PATTON: MAY WE APPROACH THE BENCH.
4 THE COURT: NO.NEED TO; JUST DON'T ASK
5 LEADING QUESTIONS.
6 Q BY MR. BROUGHAM: AT SOME POINT AS LUCKY
7 AND ROBERTO WERE TALKING IN FRONT OF DEBRA'S HOUSE,
8 DID SOMETHING HAPPEN?
9 A YES.
10 Q WHY DON'T YOU TELL US WHAT THE FIRST THING
11 THAT YOU SAW WAS THAT HAPPENED?
12 A - I WAS BACK AND I HEARD FELLOW TELL --
13 WELL, HE HAD THE GUN TO HIS HEAD. PUT IT LIKE THAT.
14 Q WHO HAD THE GUN TO WHOSE HEAD?

15 A LUCKY HAD THE'GUN TO ROBERTO'S HEAD.,
16 Q DID YOU SEE HOW HE GOT THE GUN TO ROBERTO'S HEAD?
18 A NO.
19 Q DID YOU -- WHAT WERE THEY DOING JUST
20 BEFORE LUCKY PUT THE GUN TO ROBERTO'S HEAD?
21 A ARGUING I GUESS. I MEAN THAT'S WHAT IT
22 APPEARED TO ME. -
23 Q NOW, AT THIS POINT COULD YOU TELL WHAT -
24 THEY WERE SAYING OR CAN YOU HEAR?
25 A NO.
26 Q SO THE -- SO AT NO POINT YOU COULD HEAR
27 EXACTLY WHAT WAS BEING SAID?
28 A NO.

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1 Q AND WAS THE GUN ALREADY AT ROBERT'S HEAD
2 WHEN YOU SAW THE GUN FIRST OR DID YOU SEE THE GUN
3 EARLIER?
4 A THE GUN WAS ALREADY AT HIS HEAD.
5 Q AND DID YOU LOOK DIRECTLY AT LUCKY WHEN HE
6 PUT THE GUN TO ROBERT'S HEAD?
7 A YES. S
8 Q AND HOW FAR AWAY FROM LUCKY OR FELLOW WERE
9 YOU WHEN YOU SAW THE GUN AT ROBERT'S HEAD?

10 A STILL UNDER THE TREE.
11 Q AND IF YOU ARE UNDER THE TREE, TELL ME
12 WHERE LUCKY WOULD- BE STANDING WHEN YOU SAW HIM WITH
13 THE GUN TO ARE ROBERTO'S HEAD? S
14 A WHERE YOU ARE. '
15 Q FOR THE RECORD, A DISTANCE OF PERHAPS 20 ~
16 FEET? . . . 1.
17 THE COURT: IT'S ABOUT 21, 22 FEET.
18 SOMETHING LIKE THAT.
19 MR. BROUGHAM: MAY A HAVE A MOMENT?
20 THE COURT: YES.
21 (PAUSE IN PROCEEDINGS.)
22 Q BY MR. BROUGHAM: NOW, WHAT HAPPENED AT
23 THAT POINT AFTER YOU SAW LUCKY PUT THE GUN TO
24 ROBERTO'S HEAD?
25 A TOLD HIM TO LOOK STRAIGHT
26 Q TO THE BEST OF YOUR MEMORY, WAS THAT HIS
27 EXACT WORDS?
28 - A YES.

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1 Q~ DID ROBERTO OBEY LUCKY AND LOOK
2 STRAIGHT?
3 A YES.
4 Q WHEN YOU SAY ROBERTO OBEYED LUCKY, WHAT'
5 DID HE DO?
6 A HE LOOKED STRAIGHT.
7 Q DID HE TURN HIS HEAD?
8 A YEAH.
9 Q IN WHICH DIRECTION DID HE LOOK IN?
10 A HE WOULD BE LOOKING DIRECTLY

ACROSS, THE
STREET FROM WHERE HE WAS STANDING.
Q THEN WHAT HAPPENED AT THAT POINT?
A I TURNED MY HEAD BACK AND THE NEXT THING I, I-..,
KNOW, I HEAR A SHOT.
Q HOW MANY SHOTS?
A :ONE
Q DID YOU ACTUALLY SEE THE SHOT BEING FIRED?
A NO. - .
Q YOU HAD LOOKED AWAY AT THE TIME?
A YES. -
Q WHAT DID YOU DO AFTER YOU HEARD THE SHOT BEING FIRED?
A TOOK OFF RUNNING.
Q WHAT DID DEMPSEY DO?
A TOOK OFF RUNNING.
Q WAS DEMPSEY STILL STANDING NEAR YOU?
A YEAH.
THE COURT: MISS CADE I DIDN'T ALSO TELL

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YOU, BUT THIS LADY HAS TO GET DOWN EVERYTHING YOU
SAY. THE ATTORNEYS ARE GOING TO ASK YOU A LOT OF
QUESTIONS, AND WHAT THEY SAY MAY CHANGE WHEN YOU
LISTEN TO THE WHOLE QUESTION.
SO DON'T ANTICIPATE WHAT THEY'RE GOING TO
ASK YOU. WAIT FOR THEM TO TOTALLY

FINISH THEIR
7 QUESTION AND THEN YOU ANSWER; ALL
RIGHT?
8 THE WITNESS: OKAY.
9 Q BY MR. BROUGHAM: AT THE TIME OF
THE
10 SHOOTING OR RIGHT BEFORE THE
SHOOTING, WAS DEMPSEY
11 STILL WITH YOU AT THE SAME PLACE
UNDER THE TREE OR
12 HAD HE MOVED HIS POSITION?
13 A HE WAS STILL THERE SAME PLACE.
14 Q AND DO YOU KNOW WHERE,
APPROXIMATELY WHERE
15 MICHAEL GOOD WOULD HAVE BEEN JUST
BEFORE THE
16 SHOOTING?
17 A NO.
18 Q DO YOU KNOW WHETHER HE WAS IN THE
AREA?
19 A NO
20 WAS DEMPSEY IN THE AREA?
21 A NO
22 Q WHERE SPECIFICALLY HAD YOU SEEN
MICHAEL
23 GOOD FOR THE LAST TIME WHEN YOU SAW
HIM LAST JUST
24 BEFORE THE SHOT WAS FIRED?
25 A STANDING UNDER THE TREE.
26 Q CLOSE TO YOU?
27 A YES.
28 Q AND WERE YOU CONVERSING WITH
HIM OR DOING
475
1. ANYTHING WITH HIM AT THE TIME?
2 A WE ALL WAS JUST TALKING.
3 Q AND WHEN LUCKY HAD THE GUN TO
4 ROBERT'S

5 HEAD, WHAT SIDE OF ROBERT'S HEAD DID HE
6 HAVE THE GUN
7TO?
8 A I DON'T KNOW WHAT SIDE IT WAS.
9 Q CAN YOU POINT IN COURT TODAY? S
10A THIS SIDE.
11 MR. BROUGHAM: YOUR HONOR,
12INDICATING FOR
13THE RECORD, THE POSITION JUST BEHIND
14 THE LEFT EYEBROW
15 THE COURT: SHE POINTED TO THE LEFT
SIDE OF HER HEAD ABOUT THAT LOCATION.
16 Q BY MR. BROUGHAM: CAN YOU PLEASE
17 DESCRIBE,., USING YOUR OWN ARM AND IF
16YOU NEED TO STAND UP WITH THE COURT'S
17 PERMISSION I BELIEVE THAT WOULD BE
18 OKAY.
19 CAN YOU DESCRIBE THE MOTION OF LUCKY'S
20 ARM WHEN HE HELD THE GUN TO ROBERT'S
HEAD? .
21 IN OTHER WORDS, HOW WAS HE HOLDING
22 THE GUN AGAINST ROBERT'S HEAD? CAN YOU
HOLD YOUR ARM OUT TODAY AS YOU SAW LUCKY
HOLD HIS ARM OUT AS HE
23 ALL I COULD SEE WAS THIS
24 Q DID HE HAVE THE GUN RIGHT UP AGAINST
25 ROBERT'S HEAD?
26 YES
27 Q WAS HIS ARM FULLY EXTENDED OR WAS
HIS 28ARM BENT?

A IT WAS FULLY EXTENDED.
Q DO YOU RECALL EXACTLY WHETHER IT WAS HIS LEFT HAND OR RIGHT ARM OR DO YOU?
A NO, I DON'T.
Q BUT YOU KNOW IT WAS HIS ARM?
A YES. - -
Q THEN AFTER YOU HEARD THE GUNSHOT, YOU BEGAN TO RUN?
A YES.
Q AND DID DEMPSEY BEGIN TO RUN?
A YES. WE BOTH TOOK OFF RUNNING TOGETHER.
Q DID YOU SEE MICHAEL GOOD RUN
A AFTER I GOT UP THE STREET, HE PASSED ME~ UP - .
Q WHEN YOU TALK ABOUT BEING ACROSS THE STREET, WHERE SPECIFICALLY DID YOU RUN TO?
A APARTMENT STEPS. - -'
Q WHERE WERE -- WOULD THOSE APARTMENT STEPS BE ALSO ON 84TH PLACE?
•A YES.
Q WHERE ON 84TH PLACE?
A ON THE CORNER OF KANSAS.
Q CORNER OF KANSAS AND 84TH?
A YES.
Q AND AT SOME POINT AFTER THAT, DO YOU RECALL THE POLICE SHOWING UP?
A YES.

MR. BROUGHAM: WITH THE COURT'S

PERMISSION, MAY THE WITNESS STEP OFF THE WITNESS STAND.

THE COURT: YOU CAN. IT'S REAL IMPORTANT THAT WE HEAR YOU, SO SPEAK UP REAL LOUD WHEN YOU ARE OVER THERE.

Q BY MR. BROUGHAM: WHAT I AM GOING TO ASK YOU TO DO, IF YOU WOULD, IS DIRECT YOUR ATTENTION TO WHAT'S BEEN MARKED'AS PEOPLE'S 3. STAND AS FAR BACK AS POSSIBLE SO THAT THE JUDGE AND OTHER INDIVIDUALS IN THE COURT CAN SEE THIS.

DO YOU RECOGNIZE THIS DIAGRAM?

A YES.

Q WAS THIS DIAGRAM USED IN THE LAST TRIAL? -

A YES. ' 55

Q DID YOU TESTIFY IN THE LAST TRIAL? -

A YES.

Q DOES THIS DIAGRAM SHOW WHERE THE SHOOTING TOOK PLACE? - S

A YES.

Q AND DIRECTING YOUR ATTENTION TO WHAT'S BEEN MARKED AS 1110 WEST 84THTH PLACE, WHOSE HOUSE IS THAT?

A DEBRA'S.
Q 'AND DIRECTING YOUR ATTENTION TO WHAT APPEARS TO BE A BROWN RECTANGLE MARKED TRAILER, BEHIND THAT HOUSE IS THAT THE TRAILER YOU TESTIFIED TO HAVING STAYED IN OR WAS THAT A DIFFERENT TRAILER?
A THAT'S THE TRAILER.

Q OKAY.
AND DIRECTING YOUR ATTENTION TO WHAT APPEARS TO BE A GREEN LINE, CAN YOU TELL US WHAT THAT WOULD REPRESENT?
A THEM COMING FROM REDBONE'S HOUSE.
Q THEM BEING WHO?
A LUCKY AND ROBERT.
Q LUCKY AND ROBERT.
A UH-HUH.
Q DO YOU KNOW GENERALLY WHERE REDBONE'S HOUSE WOULD BE ON THIS MAP?
A CAN YOU GIVE US A GENERAL IDEA? POINT ON THIS MAP WHERE YOU BELIEVE REDBONE'S HOUSE WOULD BE?
A RIGHT THERE - - -
Q SPECIFICALLY WHICH NUMBER? WHY DON'T YOU COME UP AND POINT IT OUT TO ME SPECIFICALLY.
A THIS ONE.
Q SOMEWHERE AROUND 1119 CIRCLE

WITH AN ARM ' -'
FOR REDBONE, YOUR HONOR.
DIRECTING YOUR ATTENTION TO WHAT'S BEEN
MARKED AS A GREEN "X", WHAT DOES THAT REPRESENT,
WHAT LOCATION IS THAT?
DO YOU SEE THE GREEN "X" HERE?
A DEBRA'S DRIVEWAY.
Q AND WHAT TOOK PLACE AT THAT GREEN "X", IF
ANYTHING?
Q LET ME WITHDRAW THAT QUESTION AND ASK YOU

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THIS QUESTION.
WHERE IN THIS DIAGRAM WERE LUCKY AND
ROBERT STANDING WHEN YOU SAW LUCKY WITH THE GUN TO
ROBERT'S HEAD?
A RIGHT HERE.
Q OKAY.
NOW, I WANT YOU TO POINT SPECIFICALLY.
YOU POINTED HERE SPECIFICALLY?
A RIGHT HERE.
Q RIGHT HERE. INDICATING JUST BELOW A GREEN
RECTANGLE. S
WOULD THAT BE IN THE DRIVEWAY?
A YES.
Q AND IS THAT WHERE THEY WERE STANDING WHEN
YOU SAW ROBERT BEING SHOT?
A YES.

17 Q AND WHERE SPECIFICALLY ON THIS DIAGRAM
18 WOULD YOU HAVE BEEN STANDING WHEN YOU OBSERVED THIS
19 INCIDENT TAKE PLACE?
20 A RIGHT HERE.
21 Q INDICATING POINTING TO A D.C. FOR HER,
22 WHICH REPRESENTS, I BELIEVE, THE LOCATION SHE WAS
23 STANDING.
24 WHAT DOES THIS RED CIRCLE WITH A T. IN IT
25 STAND FOR?
26 A THE TREE.
27 Q DID YOU SHOW ALL THOSE THINGS TO THE
28 PREVIOUS PROSECUTOR IN THE PREVIOUS TRIAL?

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1 A YES.

2 Q BEFORE THE MARKINGS WERE ON?

3 A YES.
4 Q AND WHAT DOES THE PINK LINE THAT GOES
5 ACROSS THE STREET -- WHAT DOES THAT REPRESENT?
6 A I RAN TO THE APARTMENT ACROSS THE STREET.
7 Q . IS THAT THE APARTMENT BUILDING YOU WERE
8 TALKING ABOUT EARLIER?
9 A YES.
10 Q FOR THE RECORD, INDICATING A, I BELIEVE,

11 WHAT WOULD BE A NORTHERN PATTERN DIAGONALLY ACROSS
12 TO THE NORTHEAST CORNER OF KANSAS AND 84TH PLACE.
13 AND THIS BUILDING AT THE VERY CORNER, IS
14 THAT THE APARTMENTS BUILDING WE ARE TALKING ABOUT?
15 -. A YES
16 Q AND AS YOU STOOD HERE AT THE TREE, WERE
17 YOU STILL PRETTY CLOSE TO THAT FREE TREE WHEN YOU
18 OBSERVED LUCKY WITH THE GUN TO ROBERT'S HEAD?
19 , A -YES. -
20 Q AND THE DISTANCE FROM THAT TREE TO WHERE
21 ROBERT WAS STANDING WHEN THE GUN WAS TO ROBERT'S
22 HEAD, WAS THAT THE DISTANCE YOU DESCRIBED EARLIER IN
23 OR COURT?
24 A THE SAME DISTANCE.
25 Q NOW, DID YOU HAVE ANY PROBLEM RECOGNIZING
26 LUCKY WHEN YOU SAW HIM COME WALKING UP THE STREET
27 WITH ROBERT?
28 A NO.

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1 Q DID YOU HAVE ANY PROBLEM RECOGNIZING -
2 ROBERT?
3 A NO.
4 Q DID YOU HAVE TO TAKE A SECOND LOOK AT THEM
5 OR DID YOU RECOGNIZE BOTH OF THEM

RIGHT AWAY?
A I RECOGNIZED BOTH OF THEM.
Q HAD YOU KNOWN BOTH OF THEM IN THE COMMUNITY?
A YES.
Q ABOUT HOW LONG HAD YOU KNOWN LUCKY IN THE COMMUNITY?
A ABOUT 3 OR 4 YEARS.
Q DURING THOSE 3OR 4 YEARS, ON THE AVERAGE, HOW MANY TIMES A WEEK WOULD YOU SAY YOU SAW THIS MAN?
A MAYBE TWICE.
Q ABOUT TWICE A WEEK?
A YEAH.
Q DURING THOSE OCCASIONS, DURING THOSE 3 OR-- 4 YEARS THAT YOU WOULD SEE HIM, WOULD YOU ON SOME OF THOSE OCCASIONS HAVE AN OPPORTUNITY TO LOOK AT HIM DIRECTLY IN THE FACE?
A YES.
Q AND HOW ABOUT ROBERT, ABOUT HOW LONG HAD YOU KNOWN HIM IN THE COMMUNITY?
A ABOUT THE SAME.
Q SO ALSO ABOUT 3 OR 4 YEARS?
A UH-HUH.

---

1 DURING THOSE THREE OR FOUR YEARS, HAVE YOU HAD -- /
2 ALSO HAD OPPORTUNITY TO LOOK HIM DIRECTLY IN THE FACE?
YES;

Q HAVE YOU EVER HAD A PROBLEM RECOGNIZING
EITHER ONE OF THEM?
A NO.
Q OKAY.
AND WAS. THERE ANY LIGHTING PROBLEMS IN
WATCHING LUCKY AND ROBERT AS THEY STOOD ABOUT 21
FEET AWAY FROM YOU?
A NO.
Q WHY DON'T YOU RETURN TO YOUR SEAT IF YOU
WOULD. S
A (WITNESS COMPLIED.) S -- -.
MR. BROUGHAM: YOUR HONOR, MAY I APPROACH
WITH THE OTHER SET OF PICTURES? S
' THE COURT: YEAH. NEITHER YOU NOR MR.
PATTON HAVE TO ASK TO APPROACH. JUST GO AHEAD AND
DO IT.
MR. BROUGHAM: OKAY. S
Q IF YOU WOULD BE SO KIND AS TO STEP OFF THE
WITNESS STAND AGAIN. S
DO YOU RECOGNIZE THESE PHOTOGRAPHS IN
PEOPLE'S NUMBER 1?
A YES.
Q WERE YOU SHOWN THESE PHOTOGRAPHERS DURING
THE LAST TRIAL?

A YEAH.
Q OKAY.

DID YOU ASSIST THE PROSECUTOR IN MAKING THESE MARKINGS?

A YES.

Q NOW, SHOWING YOU WHAT APPEARS TO BE A STICK FIGURE ON PHOTOGRAPH 1-D WHAT DOES THAT REPRESENT?

A ROBERTO.

Q ROBERTO? --

A YES.

Q IS THAT ABOUT WHERE HE WAS WHEN HE GOT SHOT?

A YES.

Q AND DIRECTING YOUR ATTENTION TO A -- MOVING BACKWARDS TO THE LEFT SIDE HERE, PEOPLE'S 1-B, SHOWING YOU A TREE IN THE MIDDLE OF THE PICTURE WITH A BLACK CIRCLE AND THE INITIAL D, WHAT TREE IS THAT, CAN YOU TELL US?

A THE TREE I WAS STANDING UNDER.

Q AND WHAT DOES THE D AND A GREEN LETTER STAND FOR?

A DEBRA.

Q WELL, YOU ALREADY INDICATED EARLIER THAT THIS WAS THE TREE YOU WERE STANDING BY; RIGHT.

WHERE IN THIS DIAGRAM WOULD DEMPSEY HAVE BEEN STANDING?

28 A RIGHT HERE. STANDING WITH ME.

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1 Q INDICATING NEXT TO THE TREE.

2 AND M. G., MICHAEL GOOD.

3 Q DO YOU RECALL MICHAEL GOOD AT ANY POINT

4 DURING THE INCIDENT STANDING A FEW FEET?

5 A HE--

6 Q HE--

7 THE COURT: HOLD ON.

8 WAIT UNTIL THE ATTORNEYS FINISH THE
9 QUESTION.

10 Q BY MR. BROUGHAM: I AM NOT CONCERNED AT

11 THIS POINT WITH EXACTLY WHAT POINT, BUT DO YOU

12 REMEMBER SEEING MICHAEL GOOD AT SOME
13 POINT DURING THE INCIDENT STAND NEAR THAT TREE?

14 A YES.

15 Q AND HOW ABOUT L.R., WHAT DOES THAT

REPRESENT? OR ACTUALLY -- STRIKE THAT.

17 DIRECTING YOUR ATTENTION TO PEOPLE'S C,

18 WHERE IT'S MARKED L.R., THE BEGINNING OF THE

19 DRIVEWAY INTO DEBRA'S HOUSE, WHAT DOES THAT

20 REPRESENT, THAT PARTICULAR SPOT RIGHT THERE?

21 A THIS SPOT RIGHT HERE. I GUESS
WHERE THE
22 ACCIDENTS OCCURRED.
23 Q WHY DON'T YOU TELL ME, LOOKING
AT THIS
24 PHOTOGRAPH, WHERE LUCKY AND ROBERT
WOULD HAVE BEEN
25 STANDING WHEN THEY WERE ARGUING AND
ALSO WHERE LUCKY
26 AND ROBERT WOULD HAVE BEEN STANDING
WHEN ROBERT GOT
27 SHOT?
28 A RIGHT HERE. -

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1 Q THAT'S AN X NEXT TO A D.
J. FOR THE
2 RECORD.

YOU MAY GO AHEAD AND RETURN TO YOUR SEAT.
NOW, THE WHOLE TIME WHILE YOU SAW LUCKY
AND ROBERT TALKING, DID LUCKY TALK TO
ANYONE ELSE?
OR JUST ROBER?
JUST ROBERT

8 Q AND ROBERT TALK TO ANYBODY ELSE OR
JUST
9 LUCKY?
10 A JUST LUCKY.
11 Q COULD YOU TELL WHETHER OR
NOT LUCKY WAS
ANGRY?
A NO.
14 ,Q NO, HE WASN;'T ANGRY?,
15 - A I COULDN'T TELL. -
16 . Q YOU COULDN'T TELL, OKAY.
17 AND AT ANY POINT WHILE HE WAS

STANDING IN

18 DEBRA'S DRIVEWAY, WERE YOU ABLE TO LOOK HIM DIRECTLY

19 IN THE FACE EITHER AS HE PUT THE GUN TO ROBERT'S
20 HEAD OR BEFORE HE PUT THE GUN TO ROBERT'S HEAD?
21 A YES.
22 Q WERE YOU ALSO ABLE TO LOOK AT SOME POINT

23 IN ROBERT'S FACE?

24 A YES.

25 Q AND WHERE WERE YOU WHEN THE POLICE SHOWED

26 UP?

27 A ACROSS THE STREET FROM DEBRA'S HOUSE

28 STANDING IN THE MIDDLE OF THE YARD.

1 Q DID YOU SAY ANYTHING TO THEM AT THAT
2 POINT?
3 A NO.
4 Q DID YOU AT SOME POINT 2 DAYS AFTER THE
5 INCIDENT GET PICKED UP BY DETECTIVE ALFORD AND TAKEN

6 TO SOUTH BUREAU HOMICIDE?
7 A YES. -
8 Q AND DID YOU GIVE HIM A STATEMENT AT THAT
9 POINT?
10 A YES. -
11 Q AND DID YOU TELL HIM WHAT YOU TOLD US IN
12 COURT TODAY ABOUT HAVING SEEN LUCKY SHOOT ROBERT?
13 MR. PATTON: OBJECTION. CALLING FOR A
14 CONCLUSION. . S - S
15 , THE COURT: . OVERRULED.
16 WELL, I AM SORRY. EXCUSE ME. THAT IS
SUSTAINED.
Q BY MR. BROUGHAM: DID YOU TELL HIM AT THAT
19 TIME WHAT ,YOU TOLD US IN COURT TODAY ABOUT HAVING
20 SEEN LUCKY WITH A GUN TO ROBERT'S HEAD AND THEN
21 HEARING A GUNSHOT?
22 MR. PATTON: OBJECTION. COMPOUND AND
23 COMPLEX.
24 THE COURT: OVERRULED. YOU MAY ANSWER THAT
25 QUESTION.
26 THE WITNESS: YES.
27 Q BY MR. BROUGHAM: AND DID YOU TRY TO GIVE
28 HIM AN ACCURATE STATEMENT OF WHAT YOU SAW 2 DAYS

EARLIER?
A YES.
Q AND WHEN YOU SPOKE TO HIM, IS THERE
ANYTHING THAT YOU LEFT OUT OF THAT STATEMENT
SPECIFICALLY?
A YES.
Q WHAT DID YOU SPECIFICALLY LEAVE OUT OF
THAT STATEMENT?
A ABOUT NOT TELLING HIM ABOUT MICHAEL AND
DEMPSEY.
Q SO YOU DIDN'T TELL HIM ABOUT MICHAEL GOOD
AND DEMPSEY AND THE FACT THAT THEY WERE OUT THERE AT
THE TIME OF THE SHOOTING?

A RIGHT.

Q OTHER THAN THAT, YOU TOLD HIM WHAT YOU
SAW?

A YES.

Q WAS THERE ANY PARTICULAR REASON YOU WERE
WILLING TO TELL HIM WHAT YOU SAW, BUT YOU WEREN'T
WILLING TO GIVE HIM MIKE GOOD'S AND DEMPSEY'S NAME?
A YEAH, BECAUSE I DIDN'T WANT TO INVOLVE
NOBODY, GET THEM IN, YOU KNOW.
Q DIDN'T WANT TO GET THEM INVOLVED?

24 A NO.
25 Q WHAT WERE YOU AFRAID OF HAPPENING IF YOU
26 GOT THEM INVOLVED?
27 A MIGHT GET HURT.
28 MR. PATTON: OBJECTION.

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1 THE COURT: THE OBJECTION IS?
2 MR. PATTON: CALLING -- IT ASSUMES FACTS
3 NOT IN EVIDENCE THAT SHE WAS AFRAID OF SOMETHING.
4 THE COURT: OVERRULED.
5 YOU MAY ANSWER.
6 Q BY MR. BROTJGHAM: GO AHEAD. DID YOU
7 FINISH YOUR ANSWER?
8 WHAT SPECIFICALLY WERE YOU AFRAID OF
9 HAPPENING. WERE YOU AFRAID OF SOMETHING HAPPENING S
10 TO THEM IF YOU GAVE THE OFFICER THEIR NAMES 'AND SAID
11 THEY WERE THERE AT THE TIME OF THE SHOOTING AND SAW
12 THE SHOOTING?
13 A YEP,,BECAUSE IN MY NEIGHBORHOOD YOU ARE
NOT SUPPOSED TO -- IT'S CALLED A SNITCH.
Q WHAT IS A SNITCH IN YOUR NEIGHBORHOOD?
16 A SOMEBODY THAT TALKS TO THE POLICE.
17 Q - WELL, WHAT IS A

SNITCH?
A I[illegible]ORM THE POLICE REALLY.
Q TELL WAS A SNITCH IS? -.
A SOMEBODY THAT INFORMS THE POLICE.
Q AND IF YOU INFORM THE POLICE THAT YOU **SAW** SOMEBODY DO A SHOOTING, DOES THAT MAKE YOU A SNITCH?
A UH-HUH, YES.
Q IF YOU TELL THE POLICE THAT -SOMEBODY ELSE WAS THERE AND THEY SAW THE SHOOTING --
MR. PATTON: OBJECTION. THIS IS IRRELEVANT.
THE COURT: OVERRULED.

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YOU MAY ANSWER.

I GUESS YOU MAY ASK.
Q BY MR. BROUGHAM: IF YOU TELL THE POLICE

THAT YOU SAW SOMEONE ELSE AND THEY WERE OUTSIDE AND
THEY SAW THE SHOOTING AND YOU GIVE THE POLICE THAT
NAME, DOES THAT MAKE YOU A SNITCH, TOO? S -

A YES.

Q WHAT, TO YOUR KNOWLEDGE, WHAT HAPPENS TO
SNITCHES IN YOUR COMMUNITY?

A NEVER CAN TELL. THEY COULD GET KILLED.

THEY CAN -- SOMETHING COULD HAPPEN TO THEM.

Q WERE YOU AT THE TIME OF THE SHOOTING

AFRAID OF BEING A SNITCH?
A YEP. YES.
Q NOW, AT THE TIME OF THE SHOOTING, THERE

WERE POLICE OUTSIDE; IS THAT RIGHT? S

EXCUSE ME; AFTER THE -- AT SOME POINT

AFTER THE SHOOTING THE POLICE CAME?
A YES. S
Q AND YOU COULD HAVE TALKED TO THEM AT THE

TIME?
A YES.
Q DID YOU CHOOSE NOT TO TALK TO THEM?
A YES.
Q WHY?
A AFRAID.
Q AT SOME POINT, DID YOU MAKE A DECISION TO

28 GO AHEAD AND TELL DETECTIVE ALFORD
WHAT YOU SAW?

1 A YES.

2 Q WHY DID YOU GO AHEAD AND DECIDE TO
TELL
3 HIM WHAT YOU SAW THAT DAY?

4 A BECAUSE IT WAS JUST WRONG WHAT
LUCKY DID;
5 IT WAS JUST WRONG.
6 Q AT SOME POINT, DID YOU COME TO
THE
7 PRELIMINARY HEARING, THE FIRST COURT
HEARING ON THIS
8 CASE AND TESTIFY?

9 A YES.

10 Q AND WHEN YOU TESTIFIED AT THAT
POINT, DID
11 YOU HAVE ANY PROBLEMS RECOGNIZING
LUCKY IN\COURT?
LI IDENTIFY HIM IN COURT? --
15 Q WHEN YOU SPOKE TO THE
DETECTIVE 2 DAYS
16 LATER, DO YOU REMEMBER HIM
SHOWING YOU SOME
17 PHOTOGRAPHS OF SOME PEOPLE?
18 A YES.
19 MR. BROUGHAM: I HAVE, FOR
THE RECORD,
20 YOUR HONOR, WHAT APPEARS TO BE

PEOPLE'S 3. I WANT TO
21 STOP, IF YOU WOULD, AND TAKE A LOOK AT PEOPLE'S 3.
22 THE COURT: I DON'T THINK THAT'S BEEN
23 MARKED.
24 MR. BROUGHAM: I AM SORRY.
25 THE CLERK: I HAVE 3 AS A DIAGRAM.
26 MR. BROIJG}JAM: I HAVE A 6-PACK PHOTO
27 LINE-UP. I ASK THAT BE MARK AS PEOPLE'S 6.
28 THE COURT: RIGHT.

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I Q BY MR. BROUGHAM: PEOPLE'S 6, MISS CADE,

2 DO YOU RECOGNIZE THAT PARTICULAR PHOTOGRAPHIC

3 LINE-UP?
4 A YES.
5 Q IS THAT THE LINE-UP THAT DETECTIVE ALFORD
6 SHOWED YOU?
7 A YES.
8 Q AND WHEN YOU LOOKED AT THAT LOAN LINE-UP,
9 DID YOU RECOGNIZE ANYBODY?
10 A YES.
11 Q WHO DID YOU RECOGNIZE?
12 A FELLOW.
13 Q PERSON YOU DESCRIBED IN COURT?
14 A YES.
15 Q AND WHICH PHOTO IS HE?

16 A 3.
17 Q DID YOU HAVE ANY PROBLEMS IN RECOGNIZING
18 HIM?
19 A NO.
20 Q DID YOU TELL THE DETECTIVE AT THAT TIME
21 THAT THAT WAS THE MAN WHO HAD THE GUN --
22 A YES.
23 Q -- TO ROBERTO'S HEAD?
24 NOW, YOU ALSO CAME IN AND TESTIFIED IN THE
25 FIRST TRIAL IN THIS CASE; IS THAT RIGHT?
26 A YES.
27 Q OKAY.
28 AND DID YOU RECOGNIZE LUCKY AT THAT TIME?

492
1 A YES.
2 Q IS LUCKY TODAY IN COURT WEARING HIS HAIR

3 DIFFERENTLY THAN HE DID AT THE TIME OF THE SHOOTING?

4 A YES.

5 Q HOW WOULD YOU DESCRIBE THE DIFFERENCES IN
6 HOW HE LOOKS TODAY AND AT THE TIME OF THE SHOOTING?

7 A HE CUT IT.
8 Q OKAY. HE CUT IT WHEN, BEFORE? IS IT

SHORTER NOW OR LONGER NOW?
A SHORTER.
Q HOW DID HE WEAR HIS HAIR AT THE TIME?
A IN A PONY TAIL.
Q OKAY.

AND IS THERE ANYTHING ELSE DIFFERENT ABOUT
HIM PHYSICALLY HAS AS HE SITS IN COURT BEFORE YOU

THAN AT THE TIME OF THE SHOOTING? S

A YES.

Q WHAT DIFFERENCE WOULD THAT BE?

A HE HAD ON SOME GLASSES.

Q DIDN'T WEAR GLASSES AT THE TIME?

A NO.

Q HOW ABOUT HIS TEETH; YOU SAID YOU SAW HIM

AROUND COMMUNITY FOR 3 OR 4 YEARS. EVER NOTICE

ANYTHING DIFFERENT ABOUT HIS TEETH?
A YES.
Q WHAT'S THAT?
A HE GOT A GOLD TOOTH.
Q DO YOU HAPPEN TO KNOW? IF YOU DON'T,

THAT'S FINE?

A NO.
THE COURT:
WELL, I DON'T KNOW WHAT YOU
DON'T KNOW. SO LET THE ANSWER --
THE QUESTION.
THE WITNESS:

THE COURT:
WHERE HIS TOOTH IS.

WAIT A MINUTE GO AHEAD AND ASK
Q BY MR. BROUGHAM:

ON HIS UPPER TEETH OR LOWER TEETH?

A NO.

Q
DO YOU KNOW WHETHER IT'S
ALL RIGHT.

AND APPROACHING, AND SHOWING YOU WHAT'S

BEEN MARKED AS PEOPLE'S 2, DO YOU
RECOGNIZE THE PERSON IN THAT PHOTOGRAPH?
A YES.
Q IS THAT LUCKY?
A YES.
Q NOW, AT THE TIME OF THE SHOOTING,
DID

LUCKY LOOK MORE LIKE HE DID IN THE
PHOTOGRAPH OR DID

HE LOOK MORE LIKE HE LOOKS IN COURT
TODAY?

A MORE IN THE PHOTOGRAPH.

Q HOW ABOUT HIS HAIR? WAS HIS HAIR
SIMILAR TO WHAT IT IS IN THE PHOTOGRAPH
AT THE TIME OF THE
SHOOTING?
A YES.
Q DID YOU NOTICE ANYTHING EITHER AT THE
TIME

OF THE SHOOTING OR SOME POINT BEFORE THE
SHOOTING DURING THE OCCASIONS WHEN YOU
WOULD SEE LUCKY AROUND

494
THE COMMUNITY, DID YOU NOTICE ANYTHING
UNUSUAL ABOUT
HIS ARMS?
A YES.
Q AND WHY DON'T YOU DESCRIBE FOR THE
JURORS
WHAT YOU
SAW ABOUT HIS ARMS?
A. THEY HAD BANDAGES ON.

Q BOTH ARMS OR ONE ARM?
A BOTH.
Q AT THE TIME OF THE SHOOTING, DO YOU
REMEMBER
SEEING THOSE BANDAGES?
A YES.
Q AND WHY DON'T YOU SHOW US, POINT TO
WHERE
THE BANDAGES WOULD BE AGAIN ON HIS ARMS
AND WHERE
THEY WOULD END-
A FROM HERE TO HERE.

-MR. BROUGHAM: YOUR HONOR, FOR THE

RECORD, I BELIEVE, INDICATING ABOUT THE ELBOW TO -- AT SOME PORTION OF THE HAND SIDE OF THE WRIST.

-THE COURT: HAND SIDE OF THE WRIST; IS THAT CORRECT.
Q BY MR. BROUGHAM: COULD YOU SEE WHETHER

HIS FINGERS WERE INSIDE THE BANDAGES OR OUTSIDE THE
BANDAGES?
A I DIDN'T SEE HIS FINGERS IN THERE.

Q YOU DIDN'T SEE THEM IN THE BANDAGES?

A I DIDN'T SEE HIS FINGERS IN THE BANDAGES.

Q YOU COULD SEE HIS FINGERS OUTSIDE OF THE
BANDAGES?

A/ YES.
Q ON BOTH HANDS?
A YES.
Q OKAY. S
WHEN YOU HAD SEEN HIM AROUND THE COMMUNITY
WITH THESE BANDAGES, DID HE APPEAR TO YOU TO HAVE
ANY DIFFICULT USING HIS FINGERS.
MR. PATTON: OBJECTION CALLS FOR A
CONCLUSION.
THE COURT: OVERRULED.
YOU MAY ANSWER THAT.
THE WITNESS: NO.

Q BY MR. BROUGHAM: WHEN YOU TALK ABOUT
BANDAGES, CAN YOU GIVE ME ANYMORE DETAILS IN TERMS
OF THE TYPE OF BANDAGES OR THE COLOR OF BANDAGES?
A WHITE BANDAGES.
Q WRAPPED AROUND HIS ARM?
A YES. S
Q DO YOU KNOW WHAT ACE BANDAGES ARE?
A YES.
Q ARE THEY SIMILAR TO THAT OR DIFFERENT?
A SIMILAR.
Q AND YOU SPECIFICALLY REMEMBER SEEING THAT
AT THE TIME OF THE SHOOTING.
Q YES.
Q NOW, WAS LUCKY A FRIEND OF YOURS OR WAS HE
AN ACQUAINTANCE OF YOURS? YOU KNOW WHAT I'M ASKING?

YOU SAID YOU ALREADY KNEW LUCKY WELL
AROUND THE COMMUNITY; IS THAT

RIGHT?
A YES.
Q WAS HE A FRIEND OF YOURSELF OR DID YOU JUST KNOW HIM AROUND THE NEIGHBORHOOD?
A I JUST KNOW HIM.
Q BUT YOU 2 NEVER HAD PROBLEMS WITH EACH OTHER, DID YOU?
A NO.
Q HOW ABOUT ROBERTO, WHAT WAS YOUR RELATIONSHIP?
A THE SAME.
, Q YOU KNEW HIM AROUND THE COMMUNITY?
A YES. S
Q BUT YOU WEREN'T A REAL CLOSE FRIEND OF HIS?
A NO.
, Q AND DIRECTING YOUR ATTENTION TO PEOPLE'S 5-A, I WANT YOU TO TAKE A LOOK AT IT REAL QUICK; DO YOU RECOGNIZE THAT PERSON?
A YES.
0 IS THAT ROBERTO?
A YES.
MR. BROUGHAM: MAY WE BRIEFLY APPROACH?
THE COURT: THAT'S FINE.
(THE FOLLOWING PROCEEDINGS WERE HELD AT THE BENCH:)

MR. BROUGHAM: I AM SORRY, I AM. WHEN DID YOU SAY YOU WERE GOING TO GO BREAK?

THE COURT: WE NEED TO TAKE A VERDICT, SO I HOPE THAT YOU ARE ALMOST THROUGH WITH DIRECT AND WE WILL BREAK UNTIL TOMORROW.

MR. BROUGHAM: I AM NOT.

THIS WOULD BE A GOOD TIME TO BREAK IF YOU WISH TO TAKE THE BREAK.

THE COURT: HOW MUCH MORE DO YOU HAVE?

WHAT OTHER AREAS ARE YOU GOING TO GO INTO.

MR. BROUGHAM: EXPLAIN SOMETHING -- SOME INCONSTENCIES AND IN HER PREVIOUS TESTIMONY. MORE DETAILS OF HER TRIAL TESTIMONY AND CONVERSATIONS WITH POLICE OFFICERS.

THE COURT: YOU ARE GOING TO IMPEACH HER.

MR. BROUGHAM: YEAH.

IF I DON'T, MR. PATTON WILL.
THE COURT: I AM SURE HE WILL DO THAT ALSO.
WE SHOULD BREAK NOW BECAUSE APPARENTLY THAT JURY NEXT DOOR REACHED A VERDICT. THEY ARE BACK TO WHAT THEY WERE, AND I WILL APOLOGIZE TO THE JURY FOR LEAVING EARLY BUT THIS WILL BE FINE BECAUSE WE ARE GOING TO SPEND 15 OR -20 MINUTES WITH THEM.
MR. BROUGHAM: SO WE WILL BREAK NOW?
THE COURT: YEAH.
(THE FOLLOWING PROCEEDINGS WERE HELD IN

OPEN COURT IN THE PRESENCE OF THE JURY:)

/

THE COURT: TOMORROW WE WILL GO TO 4:30.
TODAY WE HAVE TO BREAK EARLY AGAIN. SO I KNOW YOU HAVE BEEN HERE SINCE 10:30.
WE ALL HAVE BEEN, AND BEEN WORKING REAL HARD, AND SOMETIMES WE DO TOO MANY THINGS AND WE HAVE TO DO SOMETHING ELSE UNTIL 4:30 NEXT DOOR, SO.
WE WON'T BE ABLE TO BE WITH

YOU, BUT THAT WILL GET
10 YOU HOME EARLY. S 5
11 IT'S IMPORTANT NOT TO TALK ABOUT THE CASE
12 OR FORM OR EXPRESS AN OPINION ON IT.
13 10:30 AGAIN TOMORROW. WE SAW YOU PRETTY
14 CLOSE TO THAT TODAY.
15 YOU HAVE TO BE BACK AT 10:30 SHARP. s. SO
16 HAVE A GOOD NIGHT. WE WILL SEE YOU AT 10:30.
17
18 (WHEREUPON AN ADJOURNMENT WAS TAKEN
19 UNTIL WEDNESDAY AUGUST 4, 1993)
20
21
22
23
24
25
26

27

28

1 COMPTON, CALIFORNIA; WEDNESDAY, AUGUST 4, 1993
2 10:55 A.M.
3 DEPARTMENT NO. SC~O" HON. GARY E. DAIGH, JUDGE
4 (APPEARANCES AS HERETOFORE NOTED.)
5

(THE FOLLOWING PROCEEDINGS WERE HELD IN.
OPEN COURT OUT OF THE PRESENCE OF THE
JURY.)

THE COURT: MISS CADE. -

DAPHNE CADE, CALLED AS A WITNESS ON BEHALF OF THE PEOPLE, HAVING BEEN PREVIOUSLY DULY SWORN, RESUMED THE STAND AND TESTIFIED AS FOLLOWS:

THE COURT: WOULD YOU TELL THEM TO COME IN.

S 5

(PAUSE IN PROCEEDINGS.)

(THE FOLLOWING PROCEEDINGS WERE HELD IN
OPEN COURT IN THE PRESENCE OF THE JURY:)

THE COURT: GOOD MORNING.
WE HAVE ALL THE JURORS AND THE ALTERNATE PRESENT, ALL COUNSEL, MR. BROADNEX.
MISS CADE IS ON THE STAND.
WE NEED TO REMIND YOU, MA'AM, YOU ARE STILL UNDER OATH.

LISTEN CAREFULLY TO THE

QUESTIONS THAT ARE
ASKED, AND ANSWER OUTLOUD.
IF YOU DON'T UNDERSTAND THE QUESTION, LET
ME KNOW. ALL RIGHT.
THE WITNESS: OKAY.
THE COURT: YOU WERE IN THE MIDDLE OF
DIRECT.

8

DIRECT EXAMINATION
BY MR. BROUGHAM
Q MAY THE WITNESS STEP OFF THE STAND, YOUR
HONOR?
THE COURT: FINE. AGAIN KEEP YOUR VOICE
UP.
S
Q BY MR. BROUGHAM: IF YOU COULD STAND BACK
AS FAR AS POSSIBLE THERE. S
I AM GOING -TO SLIDE THIS DOWN A LITTLE BIT'
HERE. S
REFERRING TO YOUR ATTENTION TO THE DIAGRAM
THAT'S BEEN MARKED PREVIOUSLY AS PEOPLE'S NUMBER 3,
WHEN YOU STOOD NEAR THIS TREE AND WATCHED LUCKY AND
ROBERT CONVERSE IN THE AREA IN FRONT OF DEBRA'S
HOUSE, WHERE WAS THE GUN WHEN YOU SAW IT FOR THE
FIRST TIME DURING THE INCIDENT?

25 A BY HIS BELT SOMEWHERE DOWN THERE.

26 Q YOU ARE MOVING YOUR HANDS; IS THAT IN THE

27 AREA OF THE BELT LEVEL?
A BELT LEVEL.

/712

1 Q AND WERE YOU WATCHING HIM AS HE BROUGHT IT
2 ALL THE WAY UP TO THE HEAD OR DID YOU JUST SEE IT
3 SOMEWHERE IN THE WAISTBAND AREA?
4 A I JUST SEEN IT SOME WEAR WHERE IN THE
5 WAISTBAND.
6 Q SAW IT SOMEWHERE IN THE WAISTBAND AREA;
7 THE NEXT TIME THAT YOU SAW IT WOULD HAVE BEEN AT THE
8 HEAD OR DID YOU SEE IT SOMEWHERE ELSE?
9 A AT THE HEAD.
10 Q SO YOU -- SO YOU SAW IT SOMEWHERE WHERE
11 THERE IS A BELT BUCKLE AND THEN YOU SAW IT AT THE
12 HEAD?
13 A YES.
14 Q WAS IT RIGHT AFTER YOU SAW THE GUN BEING
15 HELD AT ROBERTO'S HEAD THAT YOU HEARD THE WORDS BY
16 LUCKY OR FELLOW "LOOK STRAIGHT"?

17 A YES. S
18 Q AND WAS IT IMMEDIATELY AFTER THAT OR SOME
19 TIME LATER WHEN YOU HEARD THE GUNSHOT?
20 A AFTER THAT.
21 Q WAS IT IMMEDIATELY AFTER FELLOW SAID TO
22 ROBERTO "LOOK STRAIGHT" THAT YOU HEARD THE GUNSHOT?
23 A YES.
24 Q BY THIS TIME YOU ARE ALREADY LOOKING AWAY?
25 A YES. - -
26 SO YOU DIDN'T SEE THE TRIGGER BEING PULLED?
27
28 A NO

502
Q. YOU MAY GO AND RETURN TO YOUR SEAT. NOW, YOU ALREADY INDICATED, I BELIEVE, THAT YOU TESTIFIED AT THE PRELIMINARY HEARING IN
THIS MATTER; IS THAT CORRECT?
A. YES.
Q AND THEN YOU ALSO TESTIFIED IN THE FIRST
TRIAL IN THIS MATTER?
A YES.
Q NOW, DID YOU HAVE A CHANCE TO LOOK OVER A
COUPLE PORTIONS OF THE PRELIMINARY HEARING
TRANSCRIPT WITH ME BEFORE TESTIFYING IN COURT TODAY? --
A YES.
Q DID YOU NOTICE ONE AREA IN WHICH YOUR

TESTIMONY AT 'THE PRELIMINARY HEARING WAS IN ERROR OR
WRONG?
MR. PATTON:
OBJECTION.
LEADING.
MOVE TO
STRIKE.
THE COURT:
OVERRULED.
Q BY MR. BROUGHAM:
DID YOU NOTICE THAT?
A YES.
Q WHY DON'T YOU DESCRIBE FOR US THAT AREA WHERE THE TESTIMONY WOULD BE INCORRECT?
A THE PARTS ABOUT WHEN HE SAYS I WAS ON THE
STEPS ALL THE TIME.
I WAS ON THE STEPS, BUT IT WAS AT THE END OF THE INCIDENT.
Q SO WHEN YOU REFER TO YOUR PRELIMINARY HEARING TESTIMONY ABOUT THE STEPS IN THE APARTMENT,

1 Q IT'S YOUR TESTIMONY TODAY THAT AT SOME POINT, YOU
2 WERE AT THE STEPS BUT NOT THROUGHOUT THE WHOLE
3 INCIDENT?

4 A YES.

5 MR. PATTON: OBJECTION. LEADING.

6 THE COURT: OBJECTION IS SUSTAINED.

DON'T ASK LEADING QUESTIONS.

Q BY MR. BROUGHAM: DID YOU -- AT SOME POINT

-- WERE YOU AT SOME POINT ON THE STEPS DURING THE INCIDENT?

A EXCUSE ME.

Q AT SOME POINT DURING THE INCIDENT, WERE, YOU AT THE STEPS?

A YES.

Q WAS THAT ONLY THE END OR WERE YOU THERE AT. THE BEGINNING?

A AT THE END.

Q NOW, HOW WOULD YOU DESCRIBE HOW YOU WERE FEELING AT THE TIME OF THE PRELIMINARY HEARING?

A UPSET.

Q WHY WERE YOU UPSET?

MR. PATTON: IRRELEVANT.

THE COURT: OVERRULED.

YOU MAY ANSWER.

THE WITNESS: BECAUSE OF WHAT HAPPENED.

Q BY MR. BROUGHAM: WERE YOU DOING ANYTHING
DURING THE PRELIMINARY HEARING WHILE YOU WERE TESTIFYING?

A CRYING.
Q THROUGHOUT THE PRELIMINARY HEARING?
A YES.

- MR. PATTON: OBJECTION.

THE COURT: OBJECTION IS OVERRULED.

' AGAIN, MISS CADE, YOU HAVE TO WAIT UNTIL I
RULE ON THE OBJECTION.

THE WITNESS: OKAY.

Q BY MR. BROUGHAM: NOW, YOU INDICATED I

BELIEVE THAT YOUR FIRST CONVERSATION WITH THE POLICE
WOULD HAVE BEEN YOUR CONVERSATION WITH DETECTIVE
ALFORD ON THE 20TH; IS THAT CORRECT?

A YES.

Q DID YOU TELL 'HIM DURING THAT CONVERSATION

15 WHAT YOU TOLD US TODAY ABOUT HAVING SEEN FELLOW WITH
16 THE GUN TO ROBERTO'S HEAD?

17 A YES.

18 Q DID YOU TELL HIM DURING THAT CONVERSATION

19 WHAT YOU TOLD US TODAY ABOUT HAVING HEARD FELLOW SAY
20 LOOK STRAIGHT?

21 A YES.

22 Q DID YOU TELL HIM DURING THAT CONVERSATION

23 WHAT YOU TESTIFIED TO IN COURT TODAY THAT YOU THEN
24 HEARD A GUNSHOT IMMEDIATELY?
25 A YES.
26 Q NOW, AFTER THAT TESTIMONY, YOU HAVE
27 INFORMALLY HAD CONVERSATIONS WITH VARIOUS DISTRICT

28 ATTORNEYS AND VARIOUS POLICE OFFICERS IN THE CASE AS

505
1 YOU HAVE BEEN COMING TO COURT?

2 A NO.

3 Q WHAT I AM SAYING IS HAVE YOU

BRIEFLY
4 DISCUSSED THE CASE?

5 MR. PATTON: MAY WE APPROACH.

6 THE COURT: THAT'S FINE.

7 (THE FOLLOWING PROCEEDINGS WERE HELD AT

8 THE BENCH:)

9

10 MR. PATTON: THE OBJECTION, YOUR HONOR,

11 HAS TO DO WITH I BELIEVE THE QUESTION IS GOING TO BE

12 DID SHE TELL THOSE DISTRICT ATTORNEYS WHAT SHE WAS

13 TESTIFYING TO NOW, AND WITHOUT A PROPER FOUNDATION

14 BEING LAID AS TO WHO THOSE DISTRICT ATTORNEYS ARE

15 AND SOME TYPE OF RECORD I CAN REVIEW, CALL THOSE

16 DISTRICT ATTORNEYS AND ASK THEM WHAT WAS SAID.

17 WOULD BE PATENTLY UNFAIR.

18 THE COURT: SO THE OBJECTION IS YOU

HAVE

19 TO BE SPECIFIC AS TO, I GUESS, MISS SANTOS OR ALFORD

20 OR YOU OR WHOMEVER.

21 MR. PATTON: AND THE SPECIFIC AREA,

22 BECAUSE WE SEEM TO KEEP RUNNING INTO THE PROBLEM --

23 AND I AM SAYING THIS NOW -- OF LEADING'AND

24 SUGGESTING TO WITNESS WHAT TO SAY.

25 THE COURT: I AGREE WITH YOU.

26 MR. PATTON: AND I WANT TO AVOID

27 OBJECTIONS AND BENCH CONFERENCES. WE ARE HERE NOW

28 I'D LIKE TO TELL COUNSEL AGAIN THAT THERE'S BEEN, IN

510

1 MR. PATTON: I AM ASKING THE COURT -- THE
2 COURT HAS ALREADY ADMONISHED COUNSEL, AND I HOPE
3 COUNSEL WILL FOLLOW THAT ADMONITION ABOUT LEADING.
4 WE'VE HAD A LOT.
5 THE COURT: IF YOU DON'T WANT TO LEAD-- IF
6 YOU DON'T WANT HIM TO LEAD,

THEN I WILL SUSTAIN AN
7 OBJECTION, AND IF I THINK YOU ARE TAKING ADVANTAGE
8 OF IT, I WILL LET YOU KNOW THAT.
9 ON THE OTHER HAND, JUST BECAUSE COUNSEL IS
10 LEADING, DOESN'T MAKE IT ADMISSABLE ESPECIALLY SINCE
11 THE TRIAL HAS BEEN TRIED ONCE BEFORE, IT'S BEEN MY
12, EXPERIENCE IT'S NOT UNUSUAL THAT MORE LEADING
13 HAPPENS THE SECOND TIME AROUND. DOESN'T NECESSARILY
14 MAKE IT ADMISSABLE. AS LONG AS WE KNOW YOU ARE NOT
15 GOING TO WANT THAT TO HAPPEN, WE WILL INDICATE THAT
16 TO MR. BROUGHAM. -'
17 MR. PATTON: VERY GOOD.
18 (THE FOLLOWING PROCEEDINGS WERE HELD IN
19 OPEN COURT IN THE PRESENCE OF THE JURY:)
20
21 THE COURT: THE OBJECTION TO THE LAST
22 QUESTION IS SUSTAINED.
23 PLEASE ASK ANOTHER QUESTION.
24 MR. BROUGHAM: THANK YOU, YOUR HONOR.
25 Q MISS CADE, AS YOU SIT HERE IN COURT TODAY,
26 ARE YOU ABSOLUTELY SURE THAT THIS MAN, THE DEFENDANT

27 LUCKY, WHO YOU KNOW AS EITHER LUCKY OR FELLOW, IS
THE PERSON THAT YOU SAW PUT A GUN TO ROBERTO'S HEAD

511
1 AND THEN TELL HIM TO LOOK STRAIGHT, AND THEN YOU
2 HEARD A GUNSHOT?
3 A YES.
4 MR. BROUGHAN: NOTHING FURTHER.
5 THE COURT: OKAY, MR. PATTON,
6 CROSS-EXAMINATION.
7 Q YOUR HONOR, I HAVE A YELLOW SHEET OF PAPER
8 WHICH WOULD I WOULD LIKE TO HAVE MARKED AS
9 DEFENDANT'S EXHIBIT C?
10 THE COURT: SO MARKED.
11 5 -
12 CROSS-EXAMINATION
13 BY MR. PATTON:
14 Q GOOD MORNING, MISS CADE.
15 A GOOD MORNING. -
16 Q MISS CADE, WILL YOU STEP DOWN FOR A MOMENT
17 AND TAKE A LOOK AT DEFENDANT'S EXHIBIT C.
18 THE COURT: GO AHEAD AND TAKE A GOOD LOOK -
19 AT IT.
20 Q BY MR. PATTON: TAKE A GOOD LOOK AT IT.
21 DO YOU RECOGNIZE THE DEFENDANT'S EXHIBIT C?

22 A YES.
23 Q YOU MAY RESUME YOUR SEAT.
24 MISS CADE, ON JANUARY 8, 1993, YOU WERE
25 PRESENT IN THIS COURTHOUSE IN THE DISTRICT ATTORNEYS
26 OFFICE; IS THAT CORRECT?
27 A YES.
28 Q AND AT THE TIME YOU WERE PRESENT ON

512
JANUARY 8, 1993, YOU ASSISTED A D.A. BY THE NAME OF MISS HUNTER IN THE PREPARATION OF THIS DIAGRAM; IS THAT CORRECT?
A YES.
Q AND THE PURPOSE OF THE PREPARATION OF THIS
DIAGRAM WAS TO DEPICT THE AREAS THAT HAVE BEEN

DEPICTED HERE ON PEOPLE'S EXHIBIT -- I BELIEVE

THAT'S EXHIBIT 6; IS THAT CORRECT, THE ONE THAT'S -

BEFORE YOU?
A YES.
Q AND?
THE COURT: THAT'S EXHIBIT 3 ACTUALLY.
MR. PATTON: PARDON; EXHIBIT 3. AND AT THE TIME YOU WERE WITH MISS HUNTER, IN HER OFFICE; IS THAT CORRECT?
Q AND AT THAT TINE, YOU WERE NOT CRYING IN HER OFFICE; ISN'T THAT CORRECT?

A YES.

Q AT THE TIME YOU WERE WITH MISS HUNTER IN HER OFFICE, WAS I PRESENT?

A NO.

Q AT THE TIME THAT YOU WERE WITH HIS HUNTER ON THE 8TH IN HER OFFICE, WERE YOU CRYING?
A NO.
Q OKAY.
AT THE TIME YOU WERE WITH MISS HUNTER,

MISS HUNTER PREPARED -- AT YOUR DIRECTION
513

1 DIAGRAM OF THE AREA SURROUNDING 1110 WEST 84TH
2 STREET; IS THAT CORRECT?
3 A YES.
4 Q AND, IN FACT, SHE DREW OUT THE STREET
5 THERE 84TH PLACE, WHICH IS EAST/WEST STREET; IS THAT
6 CORRECT?
7 A YES.
8 Q SHE -- ALSO IN HER OFFICE WHILE YOU WERE.
9 NOT CRYING -- DREW OUT KANSAS AVENUE; IS THAT
10 CORRECT?
11 A YES.
12 Q AND SHE ALSO PUT ON THE NORTHEAST CORNER
13 OF KANSAS AVENUE A BOX TO INDICATE

AN APARTMENT
14 BUILDING; IS THAT CORRECT?
15 A YES. .
16 Q ~ AND WHEN YOU WERE IN HER OFFICE AND YOU
17 WERE NOT CRYING, SHE ASKED YOU TO TELL HER ABOUT
18 WHERE REDBONE'S HOUSE WAS, IS THAT RIGHT?
YES.
.Q SHE ASKED YOU TO INDICATE THE APARTMENT
BUILDING~ WHERE YOU WERE; IS THAT CORRECT?
22 A YES; -

23 . Q . SHE ASKED YOU TO. INDICATE WHERE DEBRA'S
24 HOUSE IS; IS THAT RIGHT?

25 A YES.
26 Q .AND ALSO WHILE YOU WERE NOT CRYING AND I
27 WASN'T PRESENT IN MISS HUNTERS OFFICE, SHE ASKED YOU
28 IF, THIS IS THE SAME LOCATION THAT YOU LIVED 1110

514
1 WEST 84TH PLACE; IS THAT RIGHT?
2 A YES.
3 Q NOW, WHEN YOU GOT TO COURT TO TESTIFY AT
4 THE PRELIMINARY HEARING, THAT WAS THE FIRST TIME YOU
5 SAW ME; ISN'T THAT CORRECT?
6 A YES.
7.Q AND AT THE TIME OF THE PRELIMINARY

8 HEARING, MISS HUNTER ASKED YOU TO -- OR TO COME TO
9 THIS DIAGRAM, ASKED YOU IF YOU RECOGNIZE THE
10 DIAGRAM, WAS FAMILIAR WITH IT AND YOU SAID YES; IS
11 THAT RIGHT?
12 A YES.
13 Q SHE ASKED YOU TO MAKE CERTAIN INDICATIONS
14 ON THE DIAGRAM; ISN'T THAT CORRECT?
15 YES
16 Q AND THEN SHE WOULD SAY -- AFTER YOU MADE

17 THE INDICATION ON THE DIAGRAM -- I AM GOING TO MARK
18 THIS WITH A D.C.; IS THAT RIGHT?
19 A YES.
20 Q NOW, TAKE A LOOK AT THIS DIAGRAM.
21 DO YOU SEE A TREE ON THAT DIAGRAM?
22 THE COURT: CAN YOU SEE FROM THERE,
23 MA'AM.
24 Q BY MR. PATTON: YOU CAN STEP DOWN.
25 A ARE YOU TALKING TO ME.
26 Q PLEASE.
27 A NO, I DON'T SEE A TREE.
28 Q NOW, YOU HAVE HAD AN -- YOU MAY RESUME

515
1 YOUR SEAT.
2 YOU HAD AN OPPORTUNITY TO REVIEW THE
3 STATEMENT THAT YOU GAVE TO THE

DETECTIVE; IS THAT
4 CORRECT?
5 A YES.
6 Q HAVING REVIEWED THE STATEMENT THAT YOU
7 GAVE TO THE DETECTIVE, DO YOU SEE ANY PLACE IN THAT
8 STATEMENT ABOUT A TREE?
9 WOULD YOU LIKE ME TO REFRESH YOUR
10 RECOLLECTION?
11 A GO AHEAD.
12 Q LIKE TO HAVE MARKED AS DEFENDANT'S
13 EXHIBIT -- NOW, I WILL JUST FOR THIS PURPOSE ONLY.
14 WILL 'BE DEFENDANT'S EXHIBIT D.
15 TAKE A LOOK AT THAT STATEMENT.
16 DO YOU NEED TO REFRESH YOUR RECOLLECTION
17 TO ANSWER THAT QUESTION WHETHER OR NOT THERE IS
18 ANYTHING IN THERE ABOUT --
19 A SHOULD BE SOMETHING IN THERE ABOUT A TREE
20 BECAUSE I DID SAY IT.
21 Q WILL YOU TAKE A LOOK AND SEE IF THERE IS
22 ANYTHING IN THERE ABOUT THE TREE?
23 A NO.
24 Q NOW, MISS CADE, ISN'T IT CORRECT AT THE
25 PRELIMINARY HEARING YOU TESTIFIED AS FOLLOWS: PAGE
26 37 LINE 8 THROUGH 13.
27 " QUESTION, LET ME ASK YOU THIS: WHILE
28 YOU WERE MAKING THIS OBSERVATION OF ROBERTO AND THIS

PERSON WHO SHOT HIM OR RAISED HIS HANDS TOWARD HIM
AT 1110 WEST 84TH PLACE, WERE YOU ALWAYS ON THE
STEPS OF THE APARTMENT BUILDING THERE AT KANSAS?
ANSWER YES
DO YOU RECALL HAVING TESTIFIED IN THAT
FASHION AT THE PRELIMINARY HEARING?
A YES,I DO.
Q PAGE 37 LINE 14 THROUGH 15.

" QUESTION, IT WAS ALWAYS DARK OUTSIDE?
" ANSWER, YES."
DO YOU RECALL HAVING TESTIFIED TO THAT AT
THE PRELIMINARY HEARING?
A YES.
Q PAGE 37 LINE 22 THROUGH 27.
" QUESTION, AND WHO WAS STANDING THERE
WITH YOU AT THE APARTMENT.
" ANSWER, DEMPSEY AND MICHAEL GOOD.
" QUESTION, OKAY. SO MICHAEL GOOD WAS
RIGHT THERE AT THE STEPS WITH YOU?
" ANSWER, YES."
DO YOU RECALL HAVING TESTIFIED IN THAT
FASHION?
A YES.
Q PAGE 38 LINE 5 THROUGH 15.
MR. BROUGHAM: I DON'T BELIEVE ANY OF
THOSE THINGS ARE IMPEACHING.
THE COURT: LET ME READ 5 THROUGH 13.

517

THE COURT: LET ME READ IT.
(PAUSE IN PROCEEDINGS.)
I DON'T THINK THAT IT'S PROPER TO READ
THAT AT THIS TIME.
OBJECTION IS SUSTAINED.
Q BY MR. PATTON: MISS CADE, ARE YOU SAYING
THAT YOU MADE A MISTAKE AT THE PRELIMINARY HEARING
BY SAYING THAT YOU WERE ALWAYS THERE AT THE STEPS?
A YES.
Q AND ARE YOU SAYING THAT YOU MADE A MISTAKE
WHEN YOU SPOKE TO THE OFFICERS ON THE 20TH OF AUGUST
IN NOT MENTIONING A TREE?
MR. BROUGHAM: OBJECTION. ASSUMES FACTS
NOT IN EVIDENCE.
THE COURT: OBJECTION IS SUSTAINED.
Q BY MR. PATTON: ON THE 20TH OF AUGUST, THE
STATEMENT AS REFLECTED IN DEFENDANT'S -- THE
STATEMENT TO THE OFFICERS CONTAINED NOTHING ABOUT A
TREE; IS THAT CORRECT?
MR. BROUGHAM: OBJECTION. ASKED AND
ANSWERED.
THE COURT: OVERRULED.
YOU MAY ANSWER.
THE WITNESS: YEAH.

Q BY MR. PATTON: YES, I AM CORRECT; RIGHT?
A YES.
Q NOW, DO YOU RECALL AT THE PRELIMINARY
HEARING IN THIS MATTER THAT MISS HUNTER, THE

PROSECUTOR, ASKED YOU AT THE BEGINNING OF THE
PRELIMINARY HEARING, PAGE 6 LINE 3 THROUGH 14 --
DO YOU RECALL MISS HUNTER HAVING ASKED YOU
THE FOLLOWING QUESTIONS:
" QUESTION, NOW, DAPHNE I AM GOING TO
BRING YOU BACK TO AUGUST 18, 1992. DO YOU RECALL IN
THE LATER PART OF THE EVENING WHERE YOU WERE
LOCATED.
" ANSWER, YES.
" QUESTION, WHAT STREET WAS THAT ON'?
" 84TH PLACE AND KANSAS.
" QUESTION, WERE YOU ON THE CORNER OF 84TH
PLACE AND KANSAS?
"ANSWER, YES.
"QUESTION, AND WHO WERE YOU STANDING
WITH?
" ANSWER, "DEMPSEY AND MICHAEL GOOD."
DO YOU RECALL MISS HUNTER, THE PROSECUTOR,

ASKING YOU THOSE QUESTIONS?
A YES.
Q DO YOU RECALL THOSE ANSWERS HAVING BEEN GIVEN?
A YES.
Q AND AT THE TIME SHE ASKED YOU THOSE QUESTIONS, YOU HAD PARTICIPATED IN THE MAKING OF THIS DIAGRAM WHICH IS NOW DEFENDANT'S C; IS THAT RIGHT?
MR. BROUGHAM: OBJECTION. VAGUE AS TO

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"PARTICIPATED."
THE COURT: SUSTAINED. NO, NO OVERRULED.
SHE'S ALREADY ANSWERED QUESTIONS ABOUT THAT. SO GO
AHEAD AND ANSWER THE QUESTION. SHE DIDN'T ANSWER
THE QUESTION.
MR. PATTON: I AM SORRY. COULD ARLENE
READ THAT BACK?
(RECORD READ.)
THE WITNESS: YES.
Q BY MR. PATTON: AND YOU KNEW WHAT AREA SHE
WAS -- WHAT YOU WERE REFERRING TO WAS THE APARTMENT
THERE ON THE NORTHEAST CORNER; IS THAT RIGHT?
A YES.
Q NOW, YOU REMEMBER PAGE 17 LINE 28

TO 18
15 LINE 7.
16 QUESTION BY MISS HUNTER:
17 " QUESTION, NOW, WAS ANYBODY ELSE OUTSIDE
18 WHEN THE DEFENDANT POINTED AT ROBERTO'S HEAD.
19 " ANSWER, ME, DEMPSEY AND MICHAEL GOOD.
20 " QUESTION, OKAY, BUT WERE YOU ALL AT THE
21 APARTMENT.
22 " ANSWER YES.
23 " QUESTION, WHAT ABOUT AT THE LOCATION OF
24 THE DRIVEWAY, WAS ANYBODY ELSE AROUND.
25 " ANSWER NO."
26 DO YOU RECALL HAVING GIVEN THOSE -- BEING
27 ASKED THOSE QUESTIONS AND GIVING THOSE ANSWERS?
28 A YES.

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1 Q NOW, DO YOU RECALL MISS HUNTER ASKING YOU
2 ABOUT QUESTIONS ABOUT THIS DIAGRAM AT THE
3 Preliminary HEARING ABOUT WHERE YOU RAN TO?
4 A YES.
5 Q NOW, DO YOU RECALL THE FOLLOWING QUESTIONS
6 AND ANSWERS: PAGE 18 LINE 7 I AM SORRY. LINE 8 TO
7 24.
8 MR. BROUGHAM: SAME

OBJECTION, YOUR HONOR.
9 THE COURT: JUST HOLD ON.
10 (PAUSE IN PROCEEDINGS.)
11 MR. PATTON: 26, I AM SORRY, YOUR HONOR.
12 THE COURT: OBJECTION IS SUSTAINED.
13 Q BY MR. PATTON: LET ME ASK YOU THIS:
14 DID YOU INDICATE IN THE PRELIMINARY
15 HEARING THAT AFTER THE GUN WAS PULLED, THAT YOU RAN
16 FROM THIS LOCATION IN THIS DIRECTION? DID YOU
17 INDICATE THAT? 18 A YES.
19 Q AND DID THE MISS HUNTER PUT A D.C. AT THE
20 END THERE, RUNNING D.C.
21 A YES.
22 Q THAT WAS TO INDICATE YOUR DIRECTION OF
23 TRAVEL AFTER THE GUN WAS PULLED AND YOU HEARD A
24 SHOT; IS THAT RIGHT?
25 A RIGHT.
26 Q THAT WOULD BE AWAY FROM 1110, WOULD BE
27 WEST OF THERE; IS THAT RIGHT?
28 A UH-HUH.

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1 THE COURT: IS THAT YES?
2 THE WITNESS: YES.
3 Q BY MR. PATTON: WERE YOU ABLE TO
4 UNDERSTAND MISS HUNTER'S QUESTIONS AT THAT TIME?

A YES.
Q AND MISS HUNTER DREW THIS LINE FOR YOU; IS THAT RIGHT?
A YES.
Q THAT'S AFTER YOU HAD POINTED WITH YOUR FINGER IN YOUR DIRECTION OF TRAVEL; IS THAT RIGHT?
A YES.
Q YOU LIVED IN THE VICINITY OF 84TH PLACE FOR A LONG PERIOD OF TIME; IS THAT RIGHT?
A YES.
Q AND YOU WERE NOT AFRAID OF MISS HUNTER ON THE 8TH OF JANUARY, 'WERE YOU?
A NO.
Q NOW, MISS CADE, DID YOU MAKE A STATEMENT AT THE FIRST TRIAL SOME TIME IN JUNE SECOND, WEDNESDAY, TO MISS JOHNSON THAT I WAS MAKING YOU FEEL LIKE A LIAR?
A THAT YOU WERE WHAT?
Q MAKING YOU FEEL LIKE A LIAR? DID YOU MAKE THAT STATEMENT TO MISS JOHNSON?
A THAT YOU WAS MAKING ME FEEL LIKE A WHAT?
Q A LIAR?
A NO.
Q DID MISS JOHNSON TELL YOU -- YOU DIDN'T

MAKE THAT STATEMENT TO HER; IS THAT CORRECT?
A NO.
Q THAT IS CORRECT, YOU DIDN'T MAKE THAT, DID YOU?
THE COURT: SHE'S TESTIFIED ABOUT THAT ALLEGED STATEMENT.
MR. PATTON: I WILL MOVE ON.
Q DO YOU DESIRE THAT -- LET ME ASK YOU THIS:
IT IS YOUR DESIRE THAT THIS JURY BELIEVE YOU; IS THAT CORRECT?
A YES.
Q IN YOUR MIND AT THIS TIME YOU BELIEVE THAT -- DO YOU BELIEVE THAT IF YOU WERE AT THIS APARTMENT THROUGHOUT THIS PERIOD OF TIME YOU WOULD NOT HAVE BEEN IN THE POSITION TO SEE AND HEAR THE THINGS THAT YOU TESTIFIED TO?
MR. BROUGHAM: CALLS FOR SPECULATION.
THE COURT: OVERRULED.
YOU MAY ANSWER.
THE WITNESS: SAY THAT AGAIN.
(RECORD READ.)
THE WITNESS: NO.
Q BY MR. PATTON: DO YOU BELIEVE IF YOU WERE RUNNING IN THE DIRECTION AS INDICATED THERE IN THE

26 MAP THAT YOU WOULD NOT HAVE BEEN ABLE TO SEE AND
27 HEAR SOME OF THE THINGS THAT YOU TESTIFIED TO?
28 A NO.

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1 Q DO YOU BELIEVE THAT FOR THIS JURY TO
2 BELIEVE YOU, IT WOULD BE BETTER FOR YOU TO BE IN THE
3 POSITION THAT YOU HAVE INDICATED HERE BY THE TREE?
4 MR. BROUGHAM: THAT CALLS FOR SPECULATION
5 AS TO WHAT THE JURY BELIEVES. EXCUSE ME. CALLS FOR
6 A CONCLUSION.
7 THE COURT: YES, SUSTAINED.
8 Q BY MR. PATTON: NOW, YOU SAID THAT YOU
9 MADE A MISTAKE OR AN ERROR CONCERNING WHERE YOU
10 WERE; IS THAT RIGHT?
11 A YES.
12 Q DO YOU BELIEVE THAT IT WOULD BE BETTER TO
13 BE BY THE TREE THAN IT WOULD TO BE AT THE STEPS?
14 MR. BROUGHAM: OBJECTION. CALLS FOR
15 SPECULATION.
16 THE COURT: SUSTAINED.
17 Q BY MR. PATTON: NOW, DID YOU DISCUSS THE
18 SHOOTING INCIDENT WITH DEBRA JOHNSON?
19 A NO.

Q DID YOU RESIDE WITH DEBRA JOHNSON ON THE 18TH?
A YES.
Q AND WERE YOU BOTH LIVING AT 1110 WEST A -- WEST 84TH PLACE WHERE ROBERTO'S BODY WAS FOUND?
A YES.
Q ROBERTO'S BODY WAS FOUND AT A PLACE THAT YOU RESIDED AT ON 84TH PLACE AND A PLACE THAT DEBRA RESIDED AT ON 84TH PLACE; IS THAT CORRECT?

A YES.
RIGHT?
Q AND THE BODY WAS IN THE YARD; IS THAT
A YES.
Q NOW, AT THE PRELIMINARY HEARING, YOU TOLD US THAT YOU WERE PAYING DEBRA $50 EVERY 2 WEEKS FOR RENT; IS THAT CORRECT?
A YES.
Q HOWEVER, AT THE TRIAL IN THIS MATTER, YOU TOLD US THAT WAS UNTRUE; ISN'T THAT CORRECT?
A YES.
Q AND AT THE PRELIMINARY HEARING IN THIS MATTER, YOU TOLD US THAT YOU WERE THE SOURCE OF YOUR SUPPORT AT THAT PARTICULAR TIME; IS THAT CORRECT?
MR. BROUGHAM: OBJECTION AS TO RELEVANCE AS TO SOURCE OF FUNDS.
THE COURT: OVERRULED.
YOU MAY ANSWER. THE WITNESS: YES.
Q BY MR. PATTON: HOWEVER AT THE TRIAL

YOU TOLD US THAT YOU WERE NOT THE SOURCE OF YOUR SUPPORT BECAUSE YOU HAD NO INCOME; IS THAT CORRECT?
A YES.
Q NOW, IN FACT, AT THAT TIME, YOU WERE UNEMPLOYED; IS THAT RIGHT?
A YES.
AND YOU ARE UNEMPLOYED NOW; IS THAT

525
A YES.
Q AND WERE YOU -- WAS THAT A MISTAKE THAT YOU MADE AT THE PRELIMINARY HEARING SAYING THAT YOU PAID DEBRA $50 EVERY 2 WEEKS AND THAT YOU WERE THE SOURCE OF YOUR SUPPORT? WAS THAT A MISTAKE?
A YES, THAT WAS A MISTAKE.
Q AND I TAKE IT, IT WAS A MISTAKE THAT YOU MADE IN SHOWING HOW YOU TRAVEL, RUNNING; IS THAT CORRECT?
A YES.
Q AND I TAKE IT THERE WAS A MISTAKE THAT YOU MADE IN NOT TELLING THE OFFICERS THAT YOU WERE THERE BY THE TREE; IS THAT CORRECT?
A YES.
Q AND I TAKE IT IT WAS A MISTAKE WHEN YOU

16 SAID THAT YOU WERE ALWAYS THERE ON THE STEPS; IS'
17 THAT RIGHT?
18 A YES.
19 Q AND I TAKE IT IT WAS A MISTAKE WHEN YOU
20 SAID THAT AT THE TIME THE GUN WAS PULLED, THAT
21 NOBODY ELSE WAS THERE IN THE DRIVEWAY; IS THAT
22 RIGHT. THAT WAS A MISTAKE?
23 MR. BROUGHAM: OBJECTION. ASSUMES FACTS
24 NOT IN EVIDENCE.
25 THE COURT: SUSTAINED.
26 Q BY MR. PATTON: YOU DID TESTIFY AT THE
27 PRELIMINARY HEARING THAT AT THE TIME OF THE SHOOTING, THERE WAS NO ONE ELSE IN THE DRIVEWAY BUT

526
1 ROBERTO AND THE SHOOTER; IS THAT RIGHT?
2 A YES.
3 Q AND MY QUESTION TO YOU IS IS THAT A
4 MISTAKE?
5 A NO.
6 Q THAT'S TRUE?
7 A THAT'S TRUE.
8 Q NOW, DURING THIS INCIDENT WOULD IT BE TRUE
9 THAT-- STRIKE THAT.
10 NOW, YOU TOLD US YESTERDAY THAT IT
11 APPEARED TO YOU THAT ROBERTO WAS ARGUING -- STRIKE
12 THAT.
13 THAT THE SHOOTER WAS ARGUING WITH

ROBERTO;
IS THAT RIGHT?
A YES. '
Q AND 'YOU TOLD US YESTERDAY THAT THE SHOOTER
APPEARED TO BE ANGRY WITH ROBERTO; IS THAT CORRECT?
A YES.
Q HOWEVER AT THE PRELIMINARY HEARING, YOU
TOLD US THAT YOU COULD NOT HERE WHAT THE SHOOTER --
YOU DIDN'T KNOW WHETHER THE SHOOTER WAS ANGRY?
MR. BROUGHAM: OBJECTION. MISSTATES THE
TESTIMONY.
THE COURT: JUST REFER TO THE LINE AND
PAGE, IF IT DOES.
MR. PATTON: I WILL.
PAGE 12 LINE 28 TO 13 LINE 19.
THE COURT: 13 AND LINE 7 YOU CAN ANSWER

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THE QUESTION.
READ IT BACK, ARLENE.
(RECORD READ.)
THE WITNESS: YES.
Q BY MR. PATTON: THAT WAS A MISSTATEMENT;
IS THAT RIGHT?
A NO.
Q READING PAGE 12 LINE 28.

Q BY MISS HUNTER.
" DID YOU HEAR THAT THE

DEFENDANT WAS
SAYING ANYTHING.
" ANSWER, I COULDN'T UNDERSTAND WHAT THEY
WAS SAYING.
" QUESTION, BUT COULD YOU TELL THAT THEY
WERE SOMETIMES TALKING? '
ANSWER, YES. '
" QUESTION, COULD YOU TELL WHETHER OR NOT \
THE DEFENDANT, WAS ANGRY.
" ANSWER, NO.
" QUESTION, WHEN YOU SAY THAT THEY WERE
TALKING --
THE COURT: LET'S READ IT ACCURATELY.
MR. PATTON: I AM SORRY.
THE COURT: LINE 8, IT WAS "NO COMMA I
PAUSE -- IN ESSENCE, NO."
MR. PATTON: I AM SORRY. I WILL GO BACK
TO THE QUESTION.
THE COURT: READ THE WHOLE THING.

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MR. PATTON. " QUESTION, COULD YOU TELL
WHETHER OR NOT THE DEFENDANT WAS ANGRY.
" ANSWER, NO I -- PAUSE -- NO.
" QUESTION, WHEN YOU SAY THAT THEY WERE
TALKING, DID IT APPEAR THAT

THEY WERE ARGUING AT
ALL?
" THE WITNESS, ASK ME
AGAIN.
" QUESTION, SURE. WHEN YOU
SAY THAT YOU
SAW THEM TALKING, DID IT
APPEAR THAT THEY WERE
ARGUING AT ALL
" ANSWER, I REALLY DON'T
KNOW.
" QUESTION, DID YOU EVER
HEAR THE
DEFENDANT RAISE HIS VOICE?
" NO "
DO YOU RECALL THAT
TESTIMONY?
.A YES.
Q WAS THAT TRUE AT THE TIME?
A YES.
Q OR WAS THAT AN ERROR?
A NO.
Q NOW, I BELIEVE YOU TESTIFIED
YESTERDAY THAT YOU SAW MICHAEL
FERGUSON AND DEBRA JOHNSON OUTSIDE
WITH ROBERTO AND THE GUN. IS THAT RIGHT?
A NO, NO, I DID NOT.
Q WERE THEY EVER OUTSIDE IN
THE PRESENCE OF
THE GUNMAN AND ROBERTO?
A YES THEY WERE
Q NOW, DID THE GUNMAN PULL
OUT THE GUN
529
BEFORE THEY WENT INSIDE?
A NO.
Q DID YOU TESTIFY AT THE
PRELIMINARY HEARING

4 THAT BEFORE THEY WENT
INSIDE, THE GUNMAN HAD PULLED
5 OUT THE GUN?
6 A NO.
7 MR. PATTON: DIRECTING
COURT AND COUNSEL
8 TO PAGE 14 LINE 23 THROUGH
15, LINE 3; AND PAGE .27
9 LINE 18 TO 20. .
10 THE COURT: PAGE 27?
11 MR. PATTON: LINE 18 TO
20.
12 THE COURT: YOU CAN
READ BOTH. ,
13 MR. PATTON: THANK
YOU.
14 .." QUESTION, WHEN DID YOU
FIRST SEE THE
15 DEFENDANT WITH THIS GUN. : '
16 " ANSWER, I DON'T
REMEMBER
17 " QUESTION, DO YOU
REMEMBER IF IT WAS
18 BEFORE OR AFTER DEBRA AND
MICHAEL WENT IN THE
19 HOUSE
20 " ANSWER, BEFORE"
21 " QUESTION, NOW,
WHEN DEBRA AND MICHAEL
22 WENT IN THE HOUSE, DID' THE
DEFENDANT STILL HAVE THE.
23 GUN IN HIS HAND
24 ' " ANSWER, YES"
25 ' MR. BROUGHAN: WHAT
WAS THE SECOND PAGE?
26 •" MR.. PATTON:' PAGE 2,7
LINES 18,.TO 20. HAS
27 THE COURT HAD THE CHANCE - ' '

28 THE COURT: YEAH.

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MR. PATTON: " QUESTION, HE HAD A GUN IN HIS HAND WHEN MICHAEL AND DEBRA WERE OUTSIDE; IS THAT CORRECT?

" ANSWER, YES."

Q DO YOU RECALL HAVING GIVEN THAT TESTIMONY?

A I DON'T REMEMBER. REALLY TO TELL YOU THE TRUTH.

Q IF THE COURT REPORTER WROTE THAT DOWN

THEN IT'S THERE, YES.

Q WOULD THAT BE AN ERROR ON YOUR PART?

A YES.

Q THAT WAS A MISSTATEMENT; IS THAT RIGHT?

A , NO IT WASN'T A MISTAKE; IT WAS AN ERROR.

Q OKAY.

NOW, ~ ON THE 8TH OF JANUARY, 1993, WHEN YOU. TESTIFIED AT THE PRELIMINARY HEARING IN THIS MATTER, DID YOU KNOW IN YOUR MIND AT THAT TIME WHAT DAY OF THE WEEK THIS TOOK PLACE?

A YES.

Q DID YOU KNOW WHAT HOUR IT TOOK PLACE?

A NO.

Q WHAT DAY OF THE

WEEK DID IT TAKE PLACE?
A AT THIS POINT IN TIME I CANNOT REMEMBER.
Q DID You TESTIFY AT THE PRELIMINARY HEARING
YOU DIDN'T KNOW?
A I DON'T REMEMBER THAT, EITHER.
Q NOW, AT 3:00 A.M. ON THE 18TH, WHICH I

BELIEVE -- I WOULD ASK THE COURT TO TAKE JUDICIAL
NOTICE WOULD HAVE TO BE TUESDAY THE COURT TOOK
NOTICE THAT SUNDAY WAS THE 16TH.
THE COURT: ACTUALLY I THINK WE TOOK
NOTICE THAT THE 18TH WAS TUESDAY.
MR. PATTON: WE DID. OKAY.
THE COURT: IF WE DIDN'T, WE ARE NOW.
MR. PATTON: VERY WELL.
Q AT 3:00 A.M. ON TUESDAY THE 18TH OF
AUGUST, WERE YOU VISITING SOME FRIENDS AT THE
APARTMENT?
A NO.
Q AT -- THIS IS THE APARTMENT WE ARE TALKING

14 ABOUT, APARTMENT LOCATED HERE ON THE NORTHEAST
15 CORNER'
16 A I KNOW WHAT APARTMENT YOU ARE TALKING
17 ABOUT.
18 Q OKAY.
19 AND NOW, TAKING A LOOK AT PEOPLE'S 3, DOES
20 THAT SHOW THE APARTMENTS, OR THE APARTMENT WOULD BE
21 WHERE?
22 A RIGHT THERE. WANT ME TO STEP DOWN.
23 Q YES, MA'AM.
24 A RIGHT HERE.
25 Q YOU WANT TO WRITE IN THERE "APARTMENT. "
26 A (WITNESS COMPLIED.)
27 Q YOU CAN TAKE YOUR SEAT.
28 WAS SOME TYPE OF PARTYING GOING ON AT THAT

532
1 LOCATION?
2 A NO.
3 Q YOU WERE JUST VISITING?
4 A JUST A REGULAR HANG OUT.
5 Q IT WAS A HANG OUT?
6 A YES.
7 Q WHO WAS HANGING OUT THERE WITH YOU AT THAT
8 TIME?
9 MR. BROUGHAM: OBJECTION. ASSUMES FACTS
10 NOT IN EVIDENCE THAT SHE WAS HANGING OUT AT THAT
11 SPOT.

THE COURT: OVERRULED.
YOU MAY ANSWER.
THE WITNESS: WHO WAS HANGING OUT THERE.
Q YES
A QUITE A FEW PEOPLE'.
Q WAS MICHAEL GOOD THERE?
A YEAH.
Q WAS MR. DEMPSEY THERE?
A YEAH.
Q AND I TAKE IT EVERYBODY WAS THERE KIND OF
TALKING AND BEING SOCIABLE?
A IT'S A HANG OUT.
Q WHAT DO YOU MEAN IT'S A HANG OUT?
A EXCUSE ME.
Q WHAT DO YOU MEAN IT'S A HANG OUT?
A SOMEWHERE WHERE WE HANG OUT AT. HANG OUT,
TALK, DO WHATEVER IT IS WE ARE GOING TO DO AT THAT

POINT IN TIME.
Q ON THAT OCCASION, WERE YOU DRINKING ANY ALCOHOLIC
BEVERAGE?
A NO.
Q OR USING ANY TYPE OF STIMULANTS?
A NO.
Q JUST BEING SOCIABLE; IS THAT RIGHT?
A YEAH.
Q DO YOU KNOW IF ANY SPECIAL OCCASION WAS AT DEBRA JOHNSON'S HOUSE?
A EXCUSE ME.

Q DO YOU KNOW IF THERE WAS ANY TYPE OF OCCASION GOING ON AT DEBRA JOHNSON'S HOUSE?
A HER DAUGHTER'S BIRTHDAY.
Q AND AT THE TRIAL IN THIS MATTER, YOU YOU DIDN'T KNOW; ISN'T THAT CORRECT?
A I DON'T REMEMBER.
Q WHEN DID YOU FIND OUT IT WAS HER DAUGHTER'S BIRTHDAY?
A EXCUSE ME.
Q WHEN DID YOU FIND OUT THAT WAS HER DAUGHTER'S BIRTHDAY?
A WHEN DID I FIND OUT?
Birthday
I KNEW WHEN HER BIRTHDAY WAS.
Q. WERE THEY HAVING A PARTIES OVER THERE?
A NOT REALLY; I WON'T CALL IT A PARTY.
Q WHAT WOULD YOU CALL IT?
A A LITTLE GATHERING, I GUESS-

Q IT WAS A SOCIAL GATHERING; IS THAT RIGHT?
A YEAH.
Q AND IT WAS A GROUP OF PEOPLE THERE; IS THAT RIGHT?
A YEAH.
Q AND HER DAUGHTER WAS THERE?
A YES.
Q AND HER DAUGHTER WAS AWAKE?
A YES.
Q BUT I TAKE IT YOU WEREN'T INVITED TO THE PARTY; IS THAT RIGHT?
MR. BROUGHAM:

OBJECTION AS TO RELEVANCE.
MR. PATTON: WITHDRAW IT.
Q NOW, THESE MISTAKES THAT YOU MADE AT THE PRELIMINARY HEARING, WERE THEY MADE BECAUSE OF THE NEIGHBORHOOD YOU LIVE IN, AND OUT OF, FEAR OF BEING LABELED A SNITCH?,
A, NO.
Q JUST HUMAN MISTAKES AND ERRORS; IS THAT RIGHT?
A YES.
Q NOW, YOU SAID THAT YOU DIDN'T GO TO THE POLICE BECAUSE OF THE NEIGHBORHOOD YOU LIVE IN; IS THAT RIGHT? ONE OF THE REASONS.
A YES.
Q NOW, THE NEIGHBORHOOD THAT YOU LIVE IN IS IN A GENERAL SENSE BOUNDED ON THE SOUTH BY MANCHESTER, AND ON THE NORTH BY FLORENCE, MAJOR

STREETS; RIGHT?
A YES.
Q AND ON THE WEST BY VERMONT I AM SORRY ON THE EAST BY VERMONT AND ON THE WEST BY NORMANDIE; IS THAT CORRECT?
A YES.

Q IN THAT AREA IS AN AREA OF THE FAITH DOME
CHURCH; IS THAT RIGHT?
MR. BROUGHAM: OBJECTION AS TO RELEVANCE.
THE COURT: OVERRULED.
YOU MAY ANSWER.
THE WITNESS: YES.
Q BY MR. PATTON: THAT'S THE CHURCH PASTORED
BY REVEREND PRICE; IS THAT CORRECT?
MR. BROUGHAM: OBJECTION AS TO RELEVANCE.

THE COURT: OVERRULED.
THE WITNESS: YES.
Q BY MR. PATTON: AND YOU INDICATED SOME
FAMILIARITY WITH THE TERM SNITCH; RIGHT?
A YES.
Q NOW, SNITCHING CAN WORK FOR YOU AND
AGAINST YOU; ISN'T THAT CORRECT?
A I DON'T THINK SO.
Q WELL, LET ME ASK YOU THIS: SNITCHING.
SOMETIMES CAUSES YOU TO GET IN TROUBLE WITH SOMEONE
AND CAN SNITCHING SOMETIMES CAUSE YOU TO HELP
SOMEONE?
A NO.

Q FOR EXAMPLE, WOULD SNITCHING GET A FRIEND
OUT OF JAIL SOMETIMES?

MR. BROUGHAM: CALLS FOR SPECULATION, YOUR HONOR.

THE COURT: OVERRULED. GO AHEAD.

THE WITNESS: I DON'T KNOW.

Q BY MR. PATTON: IN OTHER WORDS, SNITCHING IS A TERM THAT'S USED AS YOU SAY IN YOUR COMMUNITY THAT RELATES TO A RELATIONSHIP BETWEEN A CITIZEN AND THE POLICE OR THE COPS; IS THAT RIGHT?

A RIGHT.

Q AND MEANS WHEN TURNING OVER INFORMATION TO -- WOULD YOU LIKE COPS OR OFFICERS? WHAT TERM YOU LIKE BETTER?

A IT DON'T MAKE ME NO DIFFERENCE.

Q MEANS TURNING OVER INFORMATION TO THE OFFICERS THAT THEY WOULDN'T OTHERWISE HAVE; IS THAT RIGHT? SNITCHING?

A YES.

Q YOU DIDN'T WANT TO PUT ANYBODY'S NAME IN IT BECAUSE YOU DIDN'T WANT TO SNITCH THEM OFF; RIGHT?

A RIGHT.

Q NOW, WHAT I AM SAYING SOMETIMES IF YOU TURN THE OFFICERS A DEAL AND,

SAY, IN SOLVING A
26 MURDER, THEY MAY CUT A FRIEND LOOSE WHO'S IN JAIL;
27 IS THAT RIGHT?
28 MR. BROUGHAM: C"LLS FOR SPECULATION AS TO

537
1 WHAT OFFICERS YOU ARE DEALING WITH.
2 THE COURT: OVERRULED.
3 IF YOU KNOW.

4 THE WITNESS: I DON'T KNOW.
5 Q BY MR. PATTON: DID YOU HAVE A FRIEND IN
6 JAIL AT THAT TIME?
7 A NO.
8 Q DID YOU TESTIFY AT THE TRIAL THAT THE,
9 REASONS WHY YOU WERE STAYING WITH DEBRA JOHNSON WAS
10 BECAUSE
11 A MY BOYFRIEND.
12 Q YOUR BOYFRIEND WAS IN JAIL AT THAT TIME?
13 A YEAH.
14 Q IN FACT, WERE YOU HOMELESS AT THAT TIME;
15 IS THAT RIGHT?
16 A NO.
17 Q WELL, DEBRA JOHNSON HAD TAKEN

YOU IN; 'IS

18 THAT RIGHT?
19 A SHE -- YEAH, OKAY.
20 Q NOW, I TAKE IT YOU ARE FOND OF DEBRA
21. JOHNSON; IS THAT RIGHT?
22 A YES.
23 Q AND I TAKE IT YOU KNEW THAT DEBRA JOHNSON
24 HAD SPOKEN TO THE OFFICERS ABOUT THE DEATH OF
25 ROBERTO; IS THAT RIGHT?
26 A YES.
27 Q AND YOU KNEW THAT DEBRA JOHNSON HAD TOLD

28 THE OFFICERS THAT SHE LAST SAW ROBERTO ON SUNDAY; IS

538

1 THAT RIGHT?
2 A NO.
3 Q DID YOU KNOW ANYTHING ABOUT WHAT DEBRA
4 JOHNSON HAD TOLD THE OFFICERS?
5 A NO.
6 Q NOW, YOU DID NOT COME BACK TO THE TRAILER
7 TO RESIDE UNTIL THE 19TH OF AUGUST; IS THAT CORRECT?
8 WOULD IT REFRESH YOUR RECOLLECTION IF I
9 TOLD YOU THAT YOU TESTIFIED AT THE TRIAL THAT YOU
10 CAME BACK TO THE TRAILER TO RESIDE ON THE 19TH OF
11 AUGUST. WOULD THAT REFRESH

YOUR RECOLLECTION?
A I DON'T REMEMBER.
Q LET ME ASK YOU THIS:
DO YOU HAVE AN INDEPENDENT RECOLLECTION
WHEN YOU CAME BACK TO LIVE IN THE TRAILER?
A DO I WHAT?
Q DO YOU REMEMBER WHEN YOU CAME BACK. IN
OTHER WORDS, AFTER THE 18TH, WHEN DID YOU COME BACK?
A , THE NEXT DAY; THE SAME DAY REALLY.
Q DID YOU TESTIFY AT THE TRIAL THAT YOU CAME
BACK ON THE 19TH?
A I DON'T REMEMBER.
Q IF I READ IT TO YOU, IF I TOLD YOU THAT'S
YOUR TESTIMONY AT THE TRIAL, WOULD YOU AGREE TO
THAT?
A IF IT SOUND LIKE SOMETHING I SAID, SURE.
Q YOU WANT ME TO READ IT TO YOU?
A NO.

539
SAID?
Q BUT DOES THAT SOUND LIKE SOMETHING YOU
A YEAH.
Q WHEN YOU CAME BACK ON THE 19TH TO RESIDE THERE IN THE TRAILER WITH DEBRA JOHNSON, DID THE TWO
OF YOU DISCUSS THIS HORRIBLE SHOOTING OF ROBERTO
THERE ON THE 18TH?

A NO.
Q AND YOU WERE STAYING IN THE SAME TRAILER? A YES.
Q HOW MANY BEDROOMS IN THAT TRAILER?
A NONE.
Q IT'S A VERY SMALL QUARTERS; IS THAT CORRECT?
A YES.
Q YOU HAVE TO BUNK -- WELL, STRIKE THAT. IN OTHER WORDS, THE TRAILER IS VERY SMALL
AND YOU DON'T HAVE -- IT'S VERY LITTLE PRIVATE
SPACE; IS THAT RIGHT?
A YES.
Q AND DURING THE -- BETWEEN THE TIME YOU GOT
BACK ON THE 19TH TO THE TIME YOU SAW THE OFFICERS,
YOU AND MISS JOHNSON DIDN'T UTTER A WORD ABOUT WHAT
A TRAGEDY THAT OCCURRED THERE ON HER FRONT LAWN ON
TUESDAY AT 3:00 A.M. THE 18TH OF AUGUST; IS THAT
WHAT YOU ARE SAYING?
A YES.
Q AND DID MISS JOHNSON EVER TELL YOU THAT ON

1 THE 20TH, YOU TALKED TO THE OFFICERS ON THE 20TH AS
2 WELL; RIGHT? IN THE EVENING YOU WENT TO SPEAK TO
3 THE OFFICER?
4 A YES.
5 Q DID MISS JOHNSON TELL YOU BEFORE

YOU WENT
6 TO SPEAK TO THE OFFICERS ON THE 20TH
THAT SHE HAD
7 SPOKEN TO THE OFFICERS?
8 A NO.
9 Q AND YOU SPOKE TO THE OFFICERS ON
THE 20TH
10 AT ABOUT 4:30, 5:00 P.M.; IS THAT
CORRECT?
11 A YES.
12 Q NOW, THE OFFICERS CAME OUT TO PICK
YOU UP;
13 IS THAT RIGHT?
14 A YES.
15 Q AND YOU NEVER WENT TO THE
OFFICERS TO
16 OFFER THEM INFORMATION CONCERNING
THE DEATH OF
17 ROBERTO WHO IS A FRIEND OF YOURS;
RIGHT?
18 A NO. I NEVER WENT.
19 Q IN FACT, AFTER THE EVENT THE
MORNING AT
20 3:00 A.M. YOU FLED; IS THAT RIGHT?
21 A I WHAT?
22 Q AFTER THE EVENT AROUND 3:00 A.M.~,
YOU
23 FLED? You LEFT THE SCENE; IS THAT
RIGHT?
24 A YES.
25 , Q you HAVE KNOWN MR. BROADNEX HERE,
THE
26 DEFENDANT, FOR SOME YEARS; IS THAT
RIGHT?
27 A YES.
28 Q AND HE'S FAMILIAR TO YOU; IS
THAT RIGHT?

A SHOULD BE.
Q AND WHEN YOU WERE THERE AT THE STATION HOUSE ON THE 20TH, YOU DIDN'T NEED TO SEE A PHOTOGRAPH OF HIM TO BE ABLE TO IDENTIFY HIM, DID YOU?
A NO.
Q AND LET ME ASK YOU THIS: HAD YOU SEEN MR. BROADNEX IN THE NEIGHBORHOOD SAY, BETWEEN JULY 20TH AND AUGUST SECOND OF 1992?
A I DON'T REMEMBER.
Q LET ME ASK YOU THIS: HOW LONG HAD YOU BEEN SEEING HIM REGULARLY AROUND THE NEIGHBORHOOD BEFORE THE MORNING OF AUGUST 18TH? HOW LONG HAD YOU BEEN SEEING HIM AROUND?
A NOT TOO MANY TIMES, BUT ENOUGH.
Q OKAY. AND YOU HAD BEEN SEEING HIM, SAY, A MONTH?
A I DON'T REMEMBER. OKAY?
Q NOW, WHEN YOU SAW MR. BROADNEX AROUND THE NEIGHBORHOOD, DID YOU SEE HIM SOCIALIZING WITH ROBERTO, THE DECEASED, IN THIS CASE?
A EXCUSE ME.
Q DID YOU SEE HIM SOCIALIZING WITH ROBERTO, THE DECEASED, IN THIS CASE, THE PERSON

WHO'S DEAD?
25 A YES.
26 Q HE AND ROBERTO WOULD BE IN THE SAME -- IN
27 ROBERTO'S TRUCK; IS THAT RIGHT?
28 A YES.

542
1 Q AND YOU SAW THAT ON MANY OCCASIONS; IS
2 THAT RIGHT?
3 A YES.
4 Q AND YOU SAW THEM WALKING TOGETHER ON MANY
5 OCCASIONS; IS THAT RIGHT?
6 A YES.
7 Q YOU TOLD US THAT -- LET ME ASK YOU THIS:
8 WHEN YOU WERE SEEING -- I AM SORRY.
9 WHEN YOU WERE SEEING MR. BROADNEX BEFORE
10 THE 18TH, OF AUGUST -- LET'S MAKE IT MONDAY THE 17TH
11. -- DID YOU BECOME AWARE THAT HE HAD SOME TYPE OF
12 BANDAGES OR CAST ON HIS HANDS?
13 A YES.
14 Q AND WHEN WAS IT THAT YOU FIRST BECAME
15 AWARE -- THAT IS, GOING BACK BEFORE THE 17TH, WHEN
16 WAS IT THAT YOU FIRST BECAME AWARE

THAT HE HAD SOME
17 TYPE OF BANDAGES OR CAST ON HIS HAND?
18 A -, BEFORE THE 17TH?
19 Q YES, MA'AM.
20 A I CAN'T RECALL.
21 Q CAN YOU GIVE US YOUR BEST ESTIMATE IN
22 TERMS OF WEEKS OR DAYS?
23 A NO.
24 Q DID YOU EVER GET CLOSE ENOUGH TO HIM TO
25 INSPECT THE BANDAGES ON HIS HANDS AND ARMS TO SEE
26 WHETHER OR NOT THEY WERE HARD OR SOFT?
27 A YES. -
28 Q DO YOU REMEMBER HOW MANY DAYS OR WEEKS

543
1 THAT WAS BEFORE THIS INCIDENT?
2 A NO.
3 Q CAN YOU GIVE US YOUR BEST ESTIMATE IN
4 TERMS OF DAYS OR WEEKS IT WAS THAT YOU HAD
5 TOUCHED --
6 A NO.
7 Q DID YOU EVER HAVE A DISCUSSION WITH MISS
8 JOHNSON CONCERNING MR. BROADNEX BANDAGES OR CAST ON
9 HIS HAND?
10 A NO. *
11 Q DO YOU REMEMBER THE CIRCUMSTANCES UNDER
12 WHICH YOU CAME CLOSE ENOUGH TO HIM TO TOUCH HIS ARM

AND HANDS?
A NO.
Q NOW, YOU INDICATED YESTERDAY THAT HE COULD
USE HIS FINGERS.
DO 'YOU REMEMBER TESTIFYING TO THAT?
A NO.
Q PARDON? YOU DON'T REMEMBER TESTIFYING TO
THAT?
A NO; DID I SAY THAT?
Q YES, MA'AM.

A OKAY. ANYWAY.
Q WELL, YOU DON'T KNOW IF HE COULD USE HIS
HANDS AND FINGERS?
A HE COULD USE HIS HANDS.
Q WHEN WAS IT THAT YOU GOT CLOSE ENOUGH TO
HIM BEFORE THE 17TH THAT YOU WERE ABLE TO DETERMINE

THAT HE COULD USE HIS HANDS AND FINGERS?
A I DON'T RECALL.
Q DO YOU KNOW WHO WAS PRESENT AT THE TIME
YOU MADE THIS DETERMINATION THAT HE COULD USE HIS
HANDS OR FINGERS?
A NO.
Q AS YOU SIT. THERE NOW, MISS CADE, DO YOU
WANT THIS JURY -- AS YOU SIT THERE NOW, DO YOU
WANT THE JURY TO BELIEVE THAT HE

USED HIS HANDS?
MR. BROUGHAN: OBJECTION, YOUR HONOR.
IRRELEVANT AS TO WHAT SHE WANTS.
. THE COURT: OBJECTION IS SUSTAINED.'
LET'S TAKE A BREAK; IT'S NOON. WE WILL
SEE YOU BACK AT 1:30'. '
DON'T TALK ABOUT THE CASE, EXPRESS AN
OPINION ON IT
HAVE A GOOD MEAL WE WILL SEE YOU AT
1 30
(WHEREUPON AN ADJOURNMENT WAS TAKEN
UNTIL 1 30 P M OF THE SAME DAY)

545
COMPTON, CALIFORNIA; WEDNESDAY, AUGUST 4, 1993
1:46 P.M.
DEPARTMENT NO. SC"O" HON. GARY E. DAIGH, JUDGE
(APPEARANCES AS HERETOFORE NOTED.)

(THE FOLLOWING PROCEEDINGS WERE HELD IN
OPEN COURT IN THE PRESENCE OF THE JURY:)

THE COURT: BACK WITH ALL THE JURORS AND
COUNSEL, PARTIES.
MISS CADE IS ON THE

STAND AGAIN.

DAPHNE CADE,

CALLED AS A WITNESS ON BEHALF OF THE PEOPLE, HAVING BEEN PREVIOUSLY DULY SWORN, RESUMED THE STAND AND TESTIFIED AS FOLLOWS:

THE COURT: SHE'S STILL UNDER OATH.

GO AHEAD WITH YOUR CROSS-EXAMINATION.

CROSS-EXAMINATION

BY MR. PATTON:

Q LET ME GO OVER THE EXHIBITS A LITTLE BIT WITH YOU FIRST.

DEFENDANT'S EXHIBIT C, THE DIAGRAM; THIS WAS MADE ON JANUARY 8TH; RIGHT?

A YES.

Q AND PEOPLE'S EXHIBIT I AND 3 THE DIAGRAM AND THE PHOTOGRAPHIC LAYOUT, THAT WAS MADE AND

PRESENTED DURING THE COURSE OF THE JURY TRIAL IN JUNE OF THIS YEAR; IS THAT RIGHT?

A YES.

Q NOW, WHEN DEFENDANT'S EXHIBIT C WAS MADE IN JANUARY OF THIS YEAR, JANUARY 8TH OF THIS YEAR,

THE EVENTS OF AUGUST 18TH WERE FRESH IN YOUR MIND;
IS THAT RIGHT?
A YES.
Q AND THEY WERE FRESH IN YOUR MIND THAN THEY
WERE IN JUNE; IS THAT RIGHT?
A YES.
Q NOW, I SEE IN PEOPLE'S EXHIBIT 1, THIS IS
THE -- APPEARS TO BE AN APARTMENT HOUSE. THIS IS
THE APARTMENT HOUSE THAT YOU SAY YOU WERE LOCATED AT
AT ONE POINT IN TIME; IS THAT RIGHT?
A YES. ,
Q AND THE L.R. WOULD BE THE DRIVEWAY WHERE
YOU WERE -- LET ME -- STRIKE THAT.
WOULD BE RIGHT IN HERE WOULD BE THE
DRIVEWAY TO YOUR HOME AND TO DEBRA JOHNSON'S HOME?
A YES.
Q MISS JOHNSON, CAN YOU REMEMBER AT THIS
TIME THE CIRCUMSTANCES OR DATE AND POINT OF TIME
THAT YOU SAW MR. BROADNEX AND YOU WERE ABLE TO
DETERMINE THAT HE COULD USE HIS FINGERS.
A MY NAME IS NOT MISS JOHNSON.
Q MISS CADE; I AM SORRY. I MISSPOKE

28 MYSELF.

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1 MISS CADE I WILL ASK THE QUESTION AGAIN.

2 I APOLOGIZE.

3 MISS CADE, CAN YOU RECALL SOME POINT IN

4 TIME THAT YOU SAW MR. BROADNEX AND YOU WERE ABLE TO

5 MAKE A DETERMINATION THAT HE COULD USE HIS FINGERS?

6 HE COULD USE HIS FINGERS?

7A YES.

8Q WHEN WAS THAT?

9A I MEAN NO. NO.

10Q NOW, DO YOU KNOW WHETHER OR NOT HE HAD

11FULL USE OF ALL TEN FINGERS ON BOTH HANDS OR ONLY

12 PARTIAL USE OF HIS FINGERS ON BOTH HANDS? DO YOU

13 KNOW THAT?

14 A NO. (Q)WOULD IT BE FAIR TO SAY THAT YOU ARE

15 GUESSING ABOUT WHETHER OR NOT HE COULD USE HIS

16 FINGERS ON HIS RIGHT HAND?

17 A NO.

18 Q IS THERE ANYTHING THAT, YOU COULD -- IS

19 THERE ANYTHING THAT YOU CAN TELL US AT THIS TIME, SO

20 THAT WE CAN DETERMINE WHAT THE CIRCUMSTANCES WERE

21 THAT YOU SAW HIM USING HIS FINGERS?

22 A YES.

23 MR. BROUGHAM: OBJECT TO THAT, YOUR HONOR,
24 AS PHRASED AS BEING ARGUMENTATIVE.
2 THE COURT: OVERRULED.
26 Q BY MR. PATTON: THIS IS BEFORE THE 18TH.
27 A I DON'T KNOW.
28 Q DO YOU BELIEVE AT THIS POINT THAT-

548
1 STRIKE THAT.
2 DO YOU REMEMBER HOW THE SHOOTER WAS
3 DRESSED. SHOOTER OF ROBERTO, HOW WAS HE DRESSED?
4 A NO, I DON'T.
5 Q DID YOU EVER HEAR DEBRA JOHNSON SAY THAT
6 SHE LAST SAW ARE ROBERTO ON SUNDAY?
7 MR. BROUGHAM: OBJECTION. CALLS FOR
8 HEARSAY.
9 THE COURT: SUSTAINED.
10 Q BY MR. PATTON: DID MISS JOHNSON EVER SAY
11 TO YOU AFTER THE DATE OF THE 18TH, THAT SHE LAST SAW
12 ROBERTO ON SUNDAY THE 16TH?
13 MR. BROUGHAM: SAME OBJECTION. SAME
14 QUESTION.
15 THE COURT: SUSTAINED.
16 MR. PATTON: I AM NOT

OFFERING IT FOR THE
TRUTH.
THE COURT: I UNDERSTAND. WHY DON'T YOU
GO ON TO SOMETHING ELSE.
MR. PATTON: VERY WELL.
Q NOW, MISS CADE YESTERDAY, YOU INDICATED
SOME FAMILIARITY WITH THE CONCEPT OF SNITCH IN YOUR
COMMUNITY; IS THAT CORRECT?
A YES.
Q NOW, THE IDEA OF A SNITCH IS SOMEONE --
IS A PERSON TO BE A TRUTH TELLER OR A LIAR; IS THAT
CORRECT?
A A SNITCH IS A PERSON THAT INFORMS THE

549

POLICE.
Q AND IS A SNITCH SOMEONE THAT INFORMS THE
POLICE ALWAYS TRUTHFUL OR SOMETIMES UNTRUTHFUL?
A I HAVE NO IDEA.
Q IS A SNITCH SOMEONE THAT INFORMS THE
POLICE FOR SOME TYPE OF GANG? (Gain?)
A I HAVE NO IDEA.
Q MISS CADE, IS IT TRUE THAT YOUR FEARS IN
THIS CASE RELATED TO THE FACT THAT ROBERTO WAS FOUND
ON THE FRONT LAWN OF THE LOCATION THAT YOU RESIDE
AT?

A NO.
Q WAS IT OF ANY CONCERN TO YOU THAT HIS BODY
WAS AT 1110 WEST 84TH PLACE? WHERE YOU LIVE AND
WHERE DEBRA JOHNSON LIVES?
A NO.
Q DID YOU FEEL THAT YOU HAD TO GIVE SOME
TYPE OF EXPLANATION FOR HIS BODY BEING ON YOUR FRONT
LAWN?
A NO.
Q IS THAT THE REASON WHY YOU DIDN'T GO TO
THE POLICE AND TELL THEM WHAT YOU SAY YOU KNEW?
A NO.
Q IS THERE ANY REASON WHY YOU DIDN'T TALK TO
MISS JOHNSON ABOUT THE THIS TRAGIC EVENT?
A NO.
Q WERE YOU AFRAID TO TALK TO MISS JOHNSON
ABOUT THIS TRAGIC EVENT?

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A NO.
Q DURING THAT PERIOD OF TIME, DID YOU AND
MISS JOHNSON NORMALLY COMMUNICATE ABOUT THINGS IN
AND ABOUT THE RESIDENCE?
A NO.
Q DID MISS JOHNSON TELL YOU WHATEVER YOU DO
STICK BY YOUR STORY?

MR. BROUGHAM: VAGUE AS TO TIME, YOUR HONOR.

THE COURT: SUSTAINED.

Q BY MR. PATTON: DURING THE COURSE OF THE FIRST JURY TRIAL IN THIS MATTER, SAY AROUND WEDNESDAY JUNE SECOND, WHEN YOU WERE TESTIFYING DID MISS. JOHNSON SAY TO YOU WHATEVER YOU DO, STICK BY YOUR STORY?

A. YES

Q AND DO YOU RECALL HER HAVING SAID-THAT IN THE PRESENCE OF ANYONE OTHER THAN YOURSELF?

A I DON'T REMEMBER SEEING ANYBODY THEN. BUT IT WASN'T REALLY TRYING TO HIDE ANYTHING.

Q WHERE DID THIS TAKE PLACE?

A THE BACK -- THE -- IN THE RESTROOM DOWN THE HALLWAY.

Q IN THE RESTROOM? WOULD THAT BE IN THE LADIES RESTROOM?

A YEAH.

Q TAKE PLACE ANY PLACE ELSE?

A NOT THAT I RECALL.

551

MR. PATTON: NO FURTHER QUESTIONS.

THE COURT: MR. BROUGHAM RE-DIRECT.

RE-DIRECT EXAMINATION

BY MR. BROUGHAM:

Q DO YOU KNOW WHAT I AM HOLDING IN MY HANDS IN FRONT OF YOU?

A YES.

Q WHAT IS THIS?

A TRANSCRIPT.

Q OF PREVIOUS COURT HEARINGS?

A YES.

Q AND YOU TESTIFIED THIS WOULD BE YOUR THIRD COURT HEARING THAT YOU TESTIFIED IN; IS THAT CORRECT?

A YES.

Q WOULD IT BE FAIR TO ESTIMATE THAT YOU HAVE ANSWERED PERHAPS HUNDREDS AND HUNDREDS OF QUESTIONS IN THIS CASE?

A YES.

Q AND WOULD IT BE FAIR TO SAY THAT SOME OF THOSE QUESTIONS YOU ANSWERED WITH A YES OR NO ANSWER; OTHERS WERE YOUR OWN WORDS?

A YES.

MR. PATTON: OBJECTION. THIS IS IRRELEVANT.

THE COURT: OBJECTION

IS OVERRULED.
28 Q BY MR. BROUGHAM: NOW, COUNSEL ASKED YOU A

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1 SERIES OF QUESTIONS ABOUT WHERE YOU WERE AT THE TIME
2 OF THE SHOOTING AS SHOWN IN THOSE 2 DIAGRAMS IN
3 FRONT OF YOU; IS THAT CORRECT? DO YOU REMEMBER
4 THOSE QUESTIONS?
5 A YES.
6 Q AND AS YOU SIT HERE IN COURT TODAY, DO YOU
7 HAVE A PRETTY GOOD LOOX AT THE DIAGRAMS IN FRONT OF
8 YOU?
9 A YES.
10 Q AND WOULD IT BE FAIR TO SAY THAT YOU
11 UNDERSTAND THAT ONE IS A DIAGRAM WE USED IN THE
12 TRIAL AND THE SMALLER ONE IS THE ONE THAT COUNSEL
13 ASKED YOU ABOUT AT THE PRELIMINARY HEARING?
14 A YES.
15 Q NOW, WOULD IT BE FAIR TO SAY THAT ONE
16 DIAGRAM SHOWS YOU RUNNING TOWARDS KANSAS AND THE
17 OTHER DIAGRAM SHOWS YOU ,.RUNNING AWAY FROM KANSAS?
18 A YES.
19 , Q OKAY
20 ' NOW, THAT'S A PRETTY DRASTIC

DIFFERENCE;
21 ISN'T IT?
22 A YES.
23 Q AND LET'S GO BACK TO YOUR FIRST STATEMENT
24 TO THE POLICE OFFICER ON THE 20TH. DO YOU REMEMBER
25 COUNSEL APPROACHING YOU AND SHOWING YOU YOUR
26 STATEMENT TO THE POLICE OFFICER?
27 A YES.
28 Q DO YOU REMEMBER LOOKING AT THAT IN COURT

553
1 THIS MORNING?
2 A YES.
3 Q MAY I APPROACH THE WITNESS?
4 THE COURT: YOU MAY.
5 MR. BROUGHAM: I BELIEVE THIS HAS
6 PREVIOUSLY BEEN MARKED AS DEFENSE D.
7 THE COURT: .1 THINK IT'S D.
8 MR. BROUGHAM: I WILL USE THAT IF I MAY.
9 THE COURT.: IT IS D.
10 Q BY MR. BROUGHAM: I WANT YOU TO TAKE A
11 LOOK AT THIS STATEMENT, MISS CADE. DO YOU REMEMBER
12 COUNSEL ASKING YOU THIS MORNING TO LOOK AND SEE IF
13 THE WORD TREE IS IN THERE?
14 A YES.
15 Q AND, IN FACT, THE WORD TREE WAS NOT IN
16 THERE WAS IT? ..'
17 A NO.

18 Q IS THERE ANY WORDS AS YOU STAND, AS YOU
19 SIT HERE AND LOOK AT THE STATEMENT TODAY, DO YOU SEE
20 WORDS IN THIS STATEMENT RELATING TO WHAT YOU SAID TO
21 THE DETECTIVE ABOUT WHETHER YOU RAN TOWARDS KANSAS
22 OR AWAY FROM KANSAS AFTER THE SHOOTING? IS THERE A
23 STATEMENT IN HERE? ,
24 A NO.
25 Q DIRECTING COURT AND COUNSEL'S ATTENTION TO
26 8 LINES FROM THE BOTTOM, DO YOU SEE THE WORDS?
27 THE COURT: DO YOU HAVE AN OBJECTION.
28 MR. PATTON: YES, I OBJECT TO THAT.

554

1 THE COURT: THE OBJECTION IS OVERRULED. I
2 DON'T HAVE A COPY OF IT, WHICH IS FINE. WHAT'S THE
3 GROUNDS OF THE OBJECTION?
4 MR. PATTON: IT CALLS FOR AN OPINION AND
5 -- CALLS FOR AN OPINION.
6 THE COURT: THAT OBJECTION IS OVERRULED.
7 YOU MAY PROCEED.
8 Q BY MR. BROUGHAM: DO YOU SEE THE WORDS 8
9 LINES FROM THE BOTTOM, AND I QUOTE, I RAN TOWARD
10 KANSAS.
11 DO YOU SEE THOSE WORDS?
12 A YES.

Q IN FACT, THOSE WERE THE WORDS THAT YOU
USED WHEN YOU SPOKE TO DETECTIVE ALFORD WEREN'T THEY?
A YES.
Q AND THAT'S CONTAINED HERE IN BLACK AND WHITE IN THIS STATEMENT THAT YOU GAVE TO HIM ON AUGUST 20TH?
A YES.
Q AND IT'S YOUR TESTIMONY IN COURT TODAY THAT, IN FACT, AS SHOWN IN PEOPLE'S 3, YOU DID RUN TOWARDS KANSASAND NOT AWAY FROM KANSAS?
A YES.
Q DO YOU REMEMBER AGAIN TESTIFYING OR BEING ASKED IN THE FIRST TRIAL ON THIS MATTER ABOUT THE WHOLE SUBJECT OF WHETHER YOU ARE RUNNING TOWARDS KANSAS OR AWAY FROM KANSAS? DO YOU REMEMBER

DISCUSSING WHERE YOU WERE?
A YES.
Q AND DO YOU REMEMBER BEING ASKED IN THAT TRIAL ABOUT THE LITTLE DIAGRAM, SHOWING YOU RUNNING AWAY FROM KANSAS?

A YES.
Q DID YOU CLARIFY AT THAT TIME AS YOU SAT IN
COURT TODAY THAT YOU WERE, IN FACT, RUNNING TOWARDS
KANSAS?
MR. PATTON: OBJECTION. CALLS FOR AN
OPINION.
CLARIFY.
THE COURT: OVERRULED.
YOU MAY ANSWER.
THE WITNESS: YES..
'Q BY MR. BROUGHAN: WHEN YOU TESTIFIED IN
THE PREVIOUS TRIAL, DID .NOU HAVE AN OPPORTUNITY NOT
IN THE PRELIMINARY HEARING, BUT IN THE PREVIOUS
TRIAL, DID YOU HAVE THE OPPORTUNITY TO SAY IN YOUR
OWN WORDS THAT YOU WERE RUNNING TOWARDS KANSAS?
A NO.
. Q I AM NOT TALKING ABOUT THE PRELIMINARY
HEARING. I AM TALKING ABOUT THE LAST TRIAL WHEN YOU
HAD THE DISCUSSION OF THE YELLOW SHEET OF PAPER?
A NO. .
Q LET'S GO BACK TO THE PRELIMINARY HEARING.
THE PRELIMINARY HEARIN-G IS THE FIRST COURT HEARING
YOU HAD; IS THAT RIGHT?

A YES.

Q AND COUNSEL DO YOU REMEMBER HIM ASKING YOU
SEVERAL QUESTIONS ABOUT YOUR TESTIMONY?
A YES.
Q NOW, ISN'T IT TRUE THAT YOU NEVER ONCE AT
ANY TIME IN THIS PRELIMINARY HEARING IN YOUR OWN
WORDS SAID THAT YOU WERE RUNNING AWAY FROM KANSAS?

MR. PATTON: OBJECT. THIS IS LEADING.
THE COURT: OBJECTION IS SUSTAINED.
WE HAVE' GONE OVER IT AGAIN, SO YOU KNOW
HOW TO ASK A QUESTION. DON'T ASK LEADING QUESTIONS.
Q DID YOU AT ANY POINT IN THE PRELIMINARY
HEARING TRANSCRIPT TESTIFY IN YOUR OWN WORDS THAT
YOU WERE RUNNING AWAY FROM KANSAS?
MR. PATTON: OBJECT. THIS IS CALLING FOR
A CONCLUSION.
THE WITNESS: NO.
THE COURT: OVERRULED.
WAIT FOR MY RULING.
THE WITNESS: OKAY.
Q WHEN YOU WERE BEING ASKED QUESTIONS AT THE
PRELIMINARY HEARING ABOUT THE DIRECTION YOU WERE

RUNNING IN, DID YOU EVER TALK ABOUT THE DIRECTION
YOU WERE RUNNING IN ANYTHING OTHER THAN A YES
ANSWER OR A NO ANSWER?
A NO.
Q YOU UNDERSTAND IF I ASK YOU CONFUSING
Questions, YOU WILL LET ME KNOW, WON'T YOU?

A YES.
Q WOULD IT BE FAIR, THEN, TO SAY THAT EVERY
ANSWER YOU GAVE AT THE PRELIMINARY HEARING ABOUT
DIRECTIONS WAS EITHER YES ANSWER OR A NO ANSWER?
A YES.
Q BUT WHEN YOU SPOKE TO THE DETECTIVE AND
DISCUSSED DIRECTIONS, THIS WAS IN YOUR OWN WORDS,
WAS IT NOT?
A YES.
Q AND THEN WHEN YOU CAME TO THE TRIAL LATER
AND DISCUSSED DIRECTIONS, AT THAT POINT YOU USED
YOUR OWN WORDS, DIDN'T YOU?
A YES.
Q AT THAT POINT, DID YOU TELL -- DESCRIBE IN

COURT THAT YOU WERE RUNNING TOWARDS KANSAS?
A YES.
Q SO HAVE YOU EVER -- WHEN YOU SPOKE TO
ANYONE AND USED YOUR OWN WORDS, HAVE YOU EVER SAID
YOU WERE RUNNING AWAY FROM KANSAS?
A NO.
Q NOW, WHEN THIS DIAGRAM WAS WRITTEN OR
DRAWN UP, THAT WAS AT THE PRELIMINARY HEARING, THE
ONE ON THE LEFT; IS THAT RIGHT?
A YES.
Q AND THAT'S THE HEARING AT WHICH YOU NEVER
ONCE TALKED ABOUT THE DIRECTION YOU WERE RUNNING IN
YOUR OWN WORDS; IS THAT CORRECT?
A YES.

Q AND THAT'S THE HEARING THAT YOU TESTIFIED
EARLIER THAT YOU WERE CRYING ABOUT THE HEARING?
A YES.
Q WERE YOU ALSO PREGNANT AT THE TIME OF THE
PRELIMINARY HEARING?
A YES.
Q ABOUT HOW MANY MONTHS?
A 5.
MR. PATTON: OBJECTION. ,IRRELEVANT.
THE COURT: OVERRULED YOU MAY ANSWER.
THE WITNESS: 5.

Q BY MR. BROUGHAM: ONE BABY OR 2 BABIES?
A 2.
Q NOW, I ASKED YOU EARLIER ABOUT THE HUNDREDS OF QUESTIONS AND ANSWERS THAT YOU HAVE GIVEN IN YOUR TESTIMONIAL PROCEEDINGS.
HAVE YOU ABSOLUTELY UNDERSTOOD EVERY QUESTION THAT'S BEEN ASKED OF YOU.
MR. PATTON: OBJECTION. THIS IS COMPOUND AND COMPLEX.

THE COURT: OVERRULED.
THE WITNESS: REPEAT THE QUESTION.
Q BY MR. BROUGHAM: HAVE YOU UNDERSTOOD EVERY SINGLE QUESTION OF THOSE HUNDREDS OF QUESTIONS THAT HAVE BEEN ASKED OF YOU OR HAVE YOU AT TIMES BEEN CONFUSED?
A AT TIMES CONFUSED.
Q AND WITHOUT LOOKING AT THE PRELIMINARY

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HEARING TRANSCRIPT, WOULD YOU BE ABLE TO TELL US OFFHAND HOW MANY QUESTIONS AND ANSWERS YOU GAVE AT PRELIMINARY HEARING THAT WERE REFLECTED ON PAGE 12 ALONE?

A NO.
Q IS THAT NO?
A NO.

Q WOULD LOOKING AT THE TRANSCRIPT HELP YOU FIGURE OUT HOW MANY QUESTIONS AND ANSWERS YOU HAVE GIVEN ON THAT PAGE?

THE COURT: WHAT'S THE RELEVANCY OF THAT.

MR. BROUGHAM: WITHDRAW THE QUESTION.

Q IT IS YOUR TESTIMONY TODAY THAT, IN FACT, AS YOU TOLD THE POLICE DETECTIVE DURING YOUR FIRST INTERVIEW AND AS YOU CLARIFIED DURING THE FIRST TRIAL YOU WERE RUNNING TOWARDS KANSAS AT 'THE TIME; IS THAT CORRECT?

A YES.

Q NOW, COUNSEL ASKED YOU ABOUT YOUR RENTAL ARRANGEMENTS WITH MISS JOHNSON AND I BELIEVE YOU INDICATED THAT, IN FACT, YOU WERE NOT PAYING MONEY AT THE TIME; IS THAT CORRECT?

A YES.

Q DID YOU HAVE AN UNDERSTANDING WITH HER AT THE TIME AS TO A YOUR ARRANGEMENT TO PAY MONEY?

A YES.

Q WHY DON'T YOU DESCRIBE THAT FOR US?

A IT'S GOING TO BE WHEN MY BOYFRIEND GOT OUT

1 OF JAIL.

2 Q DID YOU HAVE A SPECIFIC ARRANGEMENTS AS TO
3 WHAT WERE YOU GOING TO PAY HER THEN?
4 A SOMETHING LIKE $50 SOMEWHERE IN THERE
5 EVERY 2 WEEKS.
6 Q NOW, YOU INDICATED EARLIER THAT -- I DON'T
7 BELIEVE OR I BELIEVE IT'S YOUR TESTIMONY TODAY THAT
8 YOU DON'T RECALL HAVING ANY CONVERSATIONS WITH MISS
9 JOHNSON OR PERHAPS OTHER PEOPLE ABOUT THE SHOOTING
10 AFTER THE SHOOTING; IS THAT CORRECT?
11 A YES.
12 Q IS IT POSSIBLE THAT YOU MAY HAVE MENTIONED
13 TO SOMEONE WHAT YOU SAW?
14 MR. PATTON: OBJECTION. CALLS FOR
15 SPECULATION.
16 THE COURT: OVERRULED.
17 THE WITNESS: IT'S POSSIBLE.
18 Q BY MR. BROIJGHAM: BUT YOU DON'T REMEMBER
19 ANY CONVERSATION?
20 A NO.
21 Q AND EARLIER, WE DISCUSSED YOUR
22 IDENTIFICATION OR AT LEAST IN THE PHOTO LINE-UP THAT
23 THE DETECTIVE SHOWED YOU DURING YOUR STATEMENT ON
24 AUGUST 20TH, DO YOU REMEMBER WHAT THE FIRST THING

25 WAS THAT YOU SAID TO HIM RIGHT AFTER YOU IDENTIFIED
26 THE DEFENDANT?
27 A YES.
28 Q WHY DON'T YOU DESCRIBE FOR THE JURORS WHAT

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1 THAT WAS?
2 A I ASKED HIM WOULD LUCKY KNOW THAT I PICKED
3 HIM OUT IN THE PICTURE.
4 Q SO THE FIRST CONCERN YOU EXPRESSED TO THE
5 DETECTIVE WAS WHETHER OR NOT THE DEFENDANT WOULD
6 FIND OUT THAT YOU IDENTIFIED HIM?
7 A YES.
8 Q WHY IS THAT?
9 A BECAUSE -- KIND OF AFRAID.
10 Q IF YOU WOULD, WITH THE COURTS PERMISSION,
11 MAY MISS CADE STEP OFF THE WITNESS STAND.
12 THE COURT: THAT'S FINE.
13 Q BY MR. BROUGHAM: DIRECTING YOUR ATTENTION
14 TO THE DIAGRAM, WHICH IS PEOPLE'S 3. WE DISCUSSED
15 AN INCIDENT THAT TOOK PLACE AT OR NEAR MISS
16 JOHNSON'S HOUSE. AND DO YOU HAVE

INDEPENDENT
17 KNOWLEDGE OF HOW MANY HOUSES DOWN FROM THE CORNER
18 MISS JOHNSON'S HOUSE IS?
19 A IT'S 2 HOUSES AWAY FROM THE CORNER.
20 Q AND THIS LOCATION YOU INDICATED THAT YOU
21 WERE STANDING AT AT THE TIME YOU SAW THE DEFENDANT
22 WITH THE GUN TO ROBERTO'S HEAD, IS THAT CLOSE TO THE
23 CORNER?
24 A YES.
25 Q IS IT ALMOST RIGHT ON THE CORNER?
26 A SECOND HOUSE FROM THE CORNER.
27 Q ABOUT HOW MANY FEET AWAY FROM THE CORNER?
28 A I AM NOT SURE.

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1 Q A FEW FEET OR A LOT OF FEET'
2 MR. PATTON: OBJECTION. THIS HE'S
3 LEADING.
4 THE COU T: THAT'S NOT, BUT I CAN'T HEAR
5 HER. SO SPEAK UP REAL LOUD.
6 *0* BY MR. BROUGHAM: YOU HAVE TO SPEAK UP SO
7 THIS LADY THAT IS IN F.RONT CAN TAKE DOWN EVERYTHING,
8 WORDS YOU SAY.
9 WAS IT JUST AFEW FEET OR A LOT OF FEET.
10 MR. PATTON: OBJECTION. LEADING AND IT'S

11 SPECULATIVE, YOUR HONOR.
12 THE COURT: OVERRULED.
13 LET ME RULE ON THE MOTION. - I THINK SHE
14 SAID A LOT OF FEET.
15 THE WITNESS: YES.
16 Q BY MR. BROUGHAM: DIRECTING YOUR ATTENTION
17 TO WHAT'S BEEN MARKED P-EVIOUSLY AS PEOPLE'S 1-B WHY
18 DON'T YOU' STEP 'OVER HERE, IF YOU WOULD AND TAKE A
19 QUICK,LOOK AT THIS PHOTOGRAPH.
20 WHY DON'T YOU STEP TO THE SIDE SO THE
21 JURORS CAN SEE IT.'
22 YOU HAVE INDICATED THAT THIS WAS THE TREE
23 WITH THE BLACK CIRCLE THAT YOU WERE STANDING AT AT
24 THE TIME; IS THAT CORRECT?
25 A YES. ' '
26 Q DO YOU RECOGNIZE THE APARTMENT COMPLEX
27 BEHIND THAT? -'
28 A YES. '

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Q IS THAT THE APARTMENT COMPLEX THAT WE BEEN DISCUSSING THROUGHOUT TESTIMONY?

A YES.

Q IS THAT APARTMENT COMPLEX ON THE CORNER?

A YES.

Q IS THE TREE PRETTY CLOSE TO THE CORNER, TOO?

A YES.

Q WHY DON'T YOU RETURN TO YOUR SEAT.

WOULD IT BE FAIR TO SAY THAT EVERYTHING THAT NIGHT HAPPENED EITHER AT THE CORNER OR NEAR THE CORNER OF 84TH AND KANSAS?

A YES.

Q MAY I HAVE ONE MOMENT, YOUR HONOR?

THE COURT: YES.

(PAUSE IN PROCEEDINGS.)

Q BY MR. BROUGHAM: YOU NEVER HAD ANY

PROBLEMS WITH LUCKY BEFORE YOU SAW HIM PUT THE GUN
TO ROBERTO'S HEAD, DID YOU?
A NO.
Q WHEN YOU WENT IN AND SPOKE TO THE
DETECTIVE ON AUGUST 20TH, DID YOU TELL HIM WHAT YOU
TOLD HIM FOR ANY OTHER REASON OTHER THAN IT'S THE
TRUTH OF WHAT YOU SAW THAT NIGHT?
A NO.
Q GOING BACK TO THOSE DIAGRAMS WE TALKED
ABOUT EARLIER, SPECIFICALLY THE DIAGRAM ON THE LEFT
THE YELLOW SHEET?

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A YES.
Q THAT LINE ACROSS THE STREET THAT COUNSEL
DISCUSSED THAT WAS DRAWN BY THE PROSECUTOR; IS THAT
CORRECT?
A YES.
Q AND THAT SHOWS THE PERSON CROSSING THE
STREET?
A YES.
Q AND, IN FACT, IT IS YOUR TESTIMONY TODAY
THAT YOU DID CROSS THE STREET?
A YES.
Q AND THAT'S IN THE DIRECTION GOING TOWARDS
KANSAS?

A YES.
Q NO FURTHER QUESTIONS.
THE COURT: RECROSS-EXAMINATION.

RE-CROSS EXAMINATION
BY MR. PATTON:
Q MISS CADE, WHEN YOU WERE ASKED AT THE
TRIAL ABOUT PAYING RENT TO MISS JOHNSON, DID YOU
MENTION ANYTHING ABOUT HAVING A FUTURE ARRANGEMENT
WITH HER TO PAY RENT?
A ,EXCUSE ME.
Q DID YOU MENTION ANYTHING ABOUT HAVING A
FUTURE ARRANGEMENT WITH HER TO PAY RENT?
A YES.
MR. PATTON: PAGE 92, LINE 20, YOUR

HONOR.
THE COURT: MR. BROUGHAM.
MR. BROUGHAM: OBJECTION, YOUR HONOR.
THE COURT: SUSTAINED.
THE QUESTION RELATED TO A FUTURE
ARRANGEMENT.
MR. PATTON: VERY WELL.
Q DO YOU RECALL -- YOUR HONOR, THAT'S THE
REASON WHY I WOULD LIKE TO READ LINE 23 TO 26.
PERHAPS THAT WOULD BE DISPOSITIVE.
MR. BROUGHAM: SAME OBJECTION, YOUR
HONOR.

THE COURT: SUSTAINED.
MR. PATTON: 93, YOUR HONOR, LINE 11 TO 26.

MR. BROUGHAM: SAME OBJECTION.

THE COURT: RIGHT, SUSTAINED.

IT TALKS ABOUT HER OPINION. DOESN'T TALK ABOUT THE FUTURE ARRANGEMENT PENDING. THAT'S WHAT THE QUESTION RELATED TO.

Q BY MR. PATTON: HAVE YOU HAD A CHANCE TO READ YOUR TESTIMONY AT THE TRIAL?

A EXCUSE ME.

Q HAVE YOU HAD AN OPPORTUNITY TO READ YOUR TRIAL TESTIMONY?

A YES.

Q CAN YOU SHOW ME AND THE COURT WHERE IT IS IN YOUR TRIAL TRANSCRIPT THAT YOU SAID THERE WAS A

FUTURE ARRANGEMENT? YOU SAID THERE WAS A FUTURE ARRANGEMENT TO PAY RENT?

A NO.

MR. BROUGHAM: OBJECTION. VAGUE.

THE COURT: SUSTAINED.

I AM NOT GOING TO HAVE HER GO THROUGH A LOT OF PAGES OF TRANSCRIPTS, SO THAT'S SUSTAINED.

Q BY MR. PATTON: ISN'T IT CORRECT THAT YOU NEVER MENTIONED UP UNTIL TODAY'S DATE THAT YOU HAD ANY FUTURE ARRANGEMENT TO PAY RENT?

A I SAID NO.

Q THAT IS CORRECT, TODAY, RIGHT NOW IS THE FIRST TIME YOU MENTIONED THERE WAS A FUTURE ARRANGEMENT TO PAY RENT; ISN'T THAT CORRECT?

, A YEAH.

Q AND AT THE PRELIMINARY HEARING, WASN'T IT YOU WHO POINTED ON DEFENDANT'S EXHIBIT C ON THIS DIAGRAM THE DIRECTION THAT YOU TRAVELED AFTER THE GUNSHOT?

A YEAH.

Q AND DID MISS HUNTER SAY TO YOU AT THAT TIME,"LET THE RECORD REFLECT THAT THE WITNESS LAST POINTED ACROSS 84TH PLACE AND EASTERN DIRECTION TO THE SOUTH SIDE OF 84TH. SHE DREW A

DIAGRAM. SHE
25 DREW THIS ARROW. SHE SAID, DOES THE ARROW BASICALLY
26 REPRESENT THE PATH THAT YOU TOOK" AND YOU SAID,
27 "YES."
28 A YES.

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1 Q BEFORE THAT TIME, YOU POINTED THIS OUT TO
2 HER; ISN'T THAT RIGHT?
3 A 'YES.
4 Q AND SHE MERELY DREW IN WHAT YOU POINTED
5 OUT TO HER; IS THAT RIGHT?
6 A YES.
7 Q AT THAT TIME.YOU DIDN'T HAVE ANY PROBLEMS
8 UNDERSTANDING THIS DIAGRAM; ISN'T THAT CORRECT?
9 A YES.
10 Q DID SOMEONE BRING TO YOUR ATTENTION AT
11 SOME LATER POINT IN TIME THAT IF YOU WERE ALWAYS AT
12 THE STEPS AND RAN AWAY FROM KANSAS, THAT YOU
13 PROBABLY DIDN'T SEE THE THINGS THAT YOU CLAIM YOU
14 SAW?
15 MR. BROUGHAM: OBJECTION. ASSUMES FACTS

16 NOT IN EVIDENCE THAT ONE COULD NOT SEE FROM THE
17 STEPS.
18 'THE COURT: WELL, I AM A LITTLE CONFUSED
19 BY THE QUESTION
20 THE OBJECTION WHY DON'T YOU REPHRASE 21THE QUESTION
22 Q BY MR. PATTON: AFTER THE PRELIMINARY
23 HEARING AND AT THE TIME OF THE TRIAL, DID SOMEONE
24 SAY TO YOU THAT IF YOU WERE ALWAYS AT THE STEPS IN
25 THE NORTHEAST CORNER, IT WOULD HAVE BEEN DIFFICULT
26 FOR YOU TO SEE THE THINGS THAT YOU CLAIM YOU SAW.
27 ANYONE SAY THAT TO YOU?
28 A DID SOMEONE SAY THAT.

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1 THE COURT: OBJECTION IS OVERRULED. SHE
2 CAN ANSWER THIS QUESTION AND LET'S GO ON TO A
3 DIFFERENT AREA.
4 YES OR NO.
5 THE WITNESS: NO.
6 THE COURT: ANOTHER AREA.
7 Q BY MR. PATTON: THAT'S ABOUT THE LAST
8 AREA.
9 THE COURT: ANYTHING ELSE ON
10 RECROSS-EXAMINATION.
11 MR. BROUGHAM: I HAD A COUPLE QUESTIONS.
12 THE COURT: I KNOW WE ARE STILL

ON
13 RE-CROSS. I WASN'T CUTTING MR.
PATTON OFF.
14 OTHER THAN THAT AREA WHICH WE
WANT TO MOVE
15 ON TO, ANY OTHER AREAS?
16 ' MR. PATTON: MAY I ASK ONE LAST
QUESTION
17 IN THAT AREA.
18 THE COURT: ONE LAST QUESTION ON
THAT
19 AREA.
20 Q BY MR. PATTON: BETWEEN JANUARY
THE 8TH' AT
21 THE TIME OF THE PRELIMINARY HEARING
AND TODAY'S
22 DATE, HAVE YOU PAID MISS JOHNSON ANY
RENT?
23 A NO.
24 THE COURT: ANYTHING ELSE, MR.
BROUGHAM.
25 MR. PATTON: NO FURTHER
QUESTIONS.
26 MR. BROUGHAM: A COUPLE
QUESTIONS.
27
28 RE-DIRECT EXAMINATION

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1 BY MR. BROUGHAM:
2 Q I BELIEVE YOU INDICATED
EARLIER THAT YOU
3 SOMEHOW INDICATED AT THE PRELIMINARY
HEARING WITH A
4 POINTING OF YOUR FINGER THE
DIRECTION ACROSS THE
5 STREET; IS THAT RIGHT?
6 A YES.

Q BUT YOU NEVER EVER ONCE TESTIFIED IN THE PRELIMINARY HEARING, IN YOUR OWN WORDS, THAT YOU WERE AT THE BUILDING?

MR. PATTON: OBJECTION. ASKED AND ANSWERED.

THE COURT: THAT YOU WERE?

MR. BROUGHAM: THAT YOU WERE AT THE STEPS OF THE APARTMENTS THAT AT THE TIME OF THE SHOOTING.

THE COURT: OVERRULED.

YOU MAY ANSWER.

THE WITNESS: NO.

Q BY MR. BROUGHAM : YOU NEVER ONCE IN YOUR OWN WORDS SAID THAT YOU RAN AWAY FROM KANSAS AT THE PRELIMINARY HEARING; IS THAT CORRECT?

A YES.

MR. BROUGHAM: NOTHING FURTHER.

THE COURT: ANYTHING ELSE.

MR. PATTON: ONE LAST QUESTION.

RE-CROSS EXAMINATION

BY MR. PATTON:

Q ARE YOU BETTER WITH WORDS THAN YOU ARE

WITH POINTING?

A NO.

Q SO YOU ARE JUST -- IT WOULD BE FAIR TO SAY YOU ARE BETTER AT POINTING THAN YOU

ARE WITH WORDS.
5 A ABOUT THE SAME WITH BOTH.
6 MR. BROUGHAM: OBJECT TO THIS.
7 MR. PATTON: NO FURTHER QUESTIONS.
8 THE COURT: I DON'T -- I DON'T KNOW IF
9 IT'S ARGUMENTATIVE. I DON'T KNOW, AND SO IT'S
10 OVERRULED.
11 ,WE ARE NOW GOING TO EXCUSE MIS CADE

EXHIBIT F: DECLARATIONS OF DAPHNE CADE AND KEITH MORISETTE

1

DECLARATION OF DAPHNE CADE

2
I, Daphne Cade, declare that:
3

4 1. I testified for the People of the State of Californiaagainst Robert Lee Broadnex sometime during the year 1993.

2. I never saw anything on the night of this murder and I was living with Debra Johnson. Debra Johnson told me what to say.
I have not seen Debra Johnson for seven years.
~•. I was never an informant for any police agency. My best
recollection is that I received $97.00 for witness fees.
4 During the course of the investigation and trial I was threatened by the police, they put a warrant out for my arrest.

5 Detectives told me what to say when I testified.

6 I know for a fact that Robert Broadnex had casts on both hands and arms and did not do the murder.
7. Debra Johnson told me to say that Robert Broadnex committed
8 the murder because of some drug activity that the victim andJ ohnson were

involved.

7 At the time of the murder I was not present at the murder scene and was with my boyfriend, Keith Marsett. Both Keith and
I are now homeless and live in people's garages and on the Street.

I declare under penalty of perjury that the foregoing is true and correct.
Signed this _29th_____ day of March 2003 in Los Angeles County.
Daphne Cade (Signature)

DECLARATION OF KEITH MARSETT

I, Keith Marsett, declare that:

1 I never testified for the People of the State of California
against Robert Lee Broadnex.

2. During this time of my life I was an ~~EAST COAST~~ 8 TRAY gangster with an AKA.: Fellow.

3. That Daphne Cade was my girlfriend then and still is.

4. That we both live on the streets since my family moved away
and I was screwed out of my home through probate with my family.
5. That I knew of the victim in this case, he would sell drugs
in this area.

6. That I know my girlfriend Daphne was scared by the police and was told what to say. She was also told what to say by Debra Johnson. She told me this immediately after the cops and
Debra spoke to her.

7. That on the night of this murder Daphne Cade was with me
and we walked back to the area and saw police tape and did not

get involved.
I declare under penalty of perjury that the foregoing is
true and correct. Signed this 29th day of March 2003
in Los Angeles County.

(signature of Keith Morisette)
Keith Marsett

Declaration of Keith Marsett